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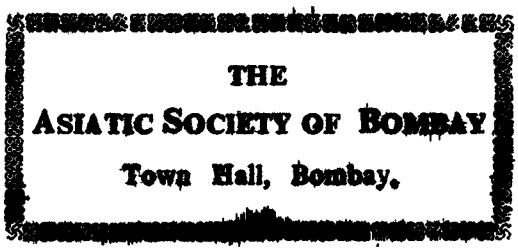

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A COLLECTION OF THE ACTS

PASSED BY THE

LIEUT.-GOVERNOR OF BENGAL IN COUNCIL

IN THE YEAR 1900.

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TITLES OF ACTS

PASSED BY THE

LIEUT.-GOVERNOR OF BENGAL IN COUNCIL

IN THE

YEAR 1900.

No. I.—An Act to amend the Bengal Municipal Act, 1884, in its application to Darjeeling.

" II.—An Act to continue and validate the appointments of certain functionaries of the Corporation of Calcutta.

" III.—An Act to amend Bengal Act I of 1869 (*an Act for the prevention of cruelty to animals*).

" IV.—An Act to give effect to an agreement made on the 9th December, 1899, between the Corporation of Calcutta and the Calcutta Tramways Company, Limited.

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E. J. H. & others—Reg. No. 600G—2,000—12-2-1901.

BENGAL ACT No. I OF 1900.

THE DARJEELING MUNICIPAL ACT, 1900.

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[*Price—Indian, three annas; English, threepence.*]

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5. Application for permission to construct, re-construct or alter a private bridge.
6. Waterway.
7. Slope of flooring under bridge.
8. Pocket above bridge.
9. Substitution of gratings for culverts.

SCHEDULE B.

RULES AS TO PRIVATE DRAINS.

1. Construction of drains for sullage water.
2. Construction of drains for surface water.
3. Drains to be open.
4. Sectional area.
5. Discharge.
6. Drain round masonry or framed building.

SCHEDULE C.

RULES AS TO THE USE OF BUILDING-SITES AND THE EXECUTION OF BUILDING-WORK.

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1. Definitions.

Part II.—Building-sites.

2. Certificate by Engineer as to site.

Part III.—Buildings generally.

3. Architecture.
4. Buildings of more than three storeys.
5. Level of floor.
6. Building over drain.

Part IV.—Masonry buildings and framed buildings generally.

7. Foundation.
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RULES.

9. External and cross walls of a one-storeyed building.
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11. External and cross walls of a three-storeyed building.
12. Party-walls.
13. Damp-proof course.
14. Roofs.
15. Floors.
16. Beams and girders.
17. Iron-work.

Part V.—Dwelling-houses.

18. Free passage about dwelling-houses.
19. Out-houses.
20. Ventilation of rooms of dwelling-house.
21. Size and ventilation of inhabited rooms.

Part VI.—Applications for approval of sites for, and for permission to erect, re-erect or materially alter masonry buildings or framed buildings.

22. Application for approval of site for erection, re-erection or material alteration of a masonry or framed building.
23. Application to be sent and particulars furnished by person intending to erect, re-erect or materially alter a masonry or framed building.
24. Signature of plans, elevations and sections.
25. Power to require further information.
26. Modification, signature and disposal of plans.

Part VII.—Huts.

27. Prohibition of projections or dropping of water over road or passage.

Part VIII.—Applications for permission to erect, re-erect or materially alter huts.

28. Application for permission to erect, re-erect or materially alter a hut.
29. Power to require further information.

SCHEDULE D.

RULES AS TO REVETMENTS, RETAINING-WALLS, TOE-WALLS, TURFIN AND SLOPING.

Part I.—Revetments, retaining-walls and toe-walls.

RULES.

1. Foundation and bed-line.
2. Materials.
3. Laying of stones.
4. Bonding.
5. Solidity.
6. Weep-holes.
7. Sections.

Part II.—Sloping.

8. Angle.

SCHEDULE E.

REPEAL OF CERTAIN PORTIONS OF THE BENGAL MUNICIPAL ACT, 1884.

SCHEDULE F.

TEMPORARY AMENDMENT OF CERTAIN PORTIONS OF THE BENGAL MUNICIPAL ACT, 1884.

SCHEDULE G.

PORTIONS OF THE BENGAL MUNICIPAL ACT, 1884, THE POWERS OR DUTIES CONFERRED OR IMPOSED BY WHICH ON THE LOCAL GOVERNMENT MAY NOT BE DELEGATED

BENGAL ACT NO. I OF 1900.

(Received the assent of the Lieutenant-Governor on the 28th February, 1900, and of the Governor General on the 28th idem.)

[Published in the Calcutta Gazette on the 7th March, 1900.]

An Act to amend the Bengal Municipal Act, 1884, in its application to Darjeeling.

WHEREAS it is expedient to amend the Bengal Municipal Act, 1884, in its application to Darjeeling, and to provide for the temporary exercise by the Local Government of certain powers of the Commissioners of the Darjeeling Municipality;

Ben. III of 1884.

It is hereby enacted as follows:—

Short title.

1. This Act may be called the Darjeeling Municipal Act, 1900.

PART I.

Application of Bengal Act III of 1884 to Darjeeling.

Ben. III of 1884.

2. The Bengal Municipal Act, 1884, as amended by this Act, shall extend to the Darjeeling Municipality as constituted for the time being under the said Bengal Municipal Act, 1884.

Power to include adjacent areas within the Darjeeling Municipality for certain purposes.

3. The Local Government, on the recommendation of the Commissioners at a meeting, may, by notification in the Calcutta Gazette, declare that any area within the Darjeeling District and adjacent to the Darjeeling Municipality shall be deemed to be included within that Municipality for the purposes of such portions of the Bengal Municipal Act, 1884, as amended by this Act, as may be specified in that behalf in such notification.

Ben. III of 1884.

Amendment of section 6.

Ben. III of 1884.

4. To section 6 of the Bengal Municipal Act, 1884, the following shall be added, namely:—

"(*20*) 'bridge' includes a culvert;

"(*21*) 'drain' includes a *jhora*, watercourse, channel or natural drainage line;

"(*22*) 'dwelling-house' means a masonry or framed building constructed, used or adapted to be used wholly or principally for human habitation;

"(*23*) 'framed building' means a building the external walls of which are constructed of timber framing or iron framing, and the stability of which depends on such framing;

Section 4.

(*Ben. Act III of 1884, section 6.*)

"(*24*) 'Government road' means a road maintained by the Government or at the public expense;

"(*25*) 'hut' means any building no material portion of which above the plinth-level is constructed of masonry or of squared timber framing or iron framing;

"(*26*) 'masonry building' means any building other than a framed building or a hut;

"(*27*) the expression 'materially alter,' when used with reference to a building, includes—

(*a*) the construction of a roof or an external or party wall,

(*b*) any repairs to the building which involve the reconstruction of a masonry or framed wall or a masonry chimney after the same has been entirely or in great part demolished,

(*c*) the closing-up of any door or window in an external wall,

(*d*) any alteration of the internal arrangements of a building which effects an alteration of its drainage, ventilation or sanitary arrangements, or which affects its security,

(*e*) the addition of any building, room, verandah, outhouse or other structure,

(*f*) the roofing of any space between one or more walls and buildings,

(*g*) the enclosing of any verandah,

(*h*) the conversion into more than one place for human habitation of a building originally constructed as one such place, and

(*j*) the conversion of two or more places for human habitation into a greater number of such places:

Explanation.—Clause (*f*) applies only as regards the structure which is formed by roofing a space, and not as regards adjoining buildings;

Section 4.

(*Ben. Act III of 1884, section 6.*)

"(*28*) 'plinth' means the part of a wall between the ground-level and the level of the lowest floor of a building;

"(*29*) 'private bridge' means any bridge which is not a public bridge as defined in this section;

"(*30*) 'private drain' means any drain which is not a public drain as defined in this section, and includes any surface sullage or other drain on private property;

"(*31*) 'private road' means any road, path, street, alley, way or passage which is not a public road or a Government road as defined in this section;

"(*32*) 'public bridge' means a bridge on or over which a public road or any public work is carried, and the property in which is for the time being vested in the Commissioners;

"(*33*) 'public drain' means any drain which is vested in the Commissioners;

"(*34*) the expression 'public road' means any road, path, street, alley, way or passage over which the public have a right of way, and the property in which is vested in the Commissioners; and, as used in section 189, section 207, section 216 section 217, clause (*l*), and section 235; and in rule 5 of Schedule B and rule 18 of Schedule C, includes also a Government road; and

"(*35*) the expression 're-erect,' when used with reference to a building, includes—

(*a*) the re-construction of a building after more than one-half its cubical extent has been taken down or burnt down or has fallen down,

(*b*) the conversion of one or more huts or temporary structures into a masonry or framed building, and

(*c*) the conversion into a place for human habitation of any building not originally constructed for human habitation:

Explanation.—Clause (*a*) applies whether the re-construction takes place (after the commencement of the Darjeeling Municipal Act, 1900) entirely at the

same time or by instalments at different times, and whether more than half the cubical extent has (after the commencement of the Darjeeling Municipal Act, 1900) been taken down or been burnt down or fallen down at the same time or at different times."

Insertion of new section, 6A.

5. After section 6 of the said Act the following shall be inserted, namely:—

"6A. The Commissioners may decide whether any particular building is a framed building, a masonry building or a hut, as defined in section 6; and their decision shall be final."

Power to define character of building.

Restriction on application of sections 175 to 182.

6. Sections 175 to 182 of the said Act shall not apply in the case of any notice issued under any of the clauses enacted by this Act or under any rule or bye-law made under any such clause.

Insertion of new sections, 182A and 182B.

7. After section 182 of the said Act the following shall be inserted, namely:—

"182A. (*1*) When the Commissioners, by written notice, make any requisition or order under any of the clauses enacted by the Darjeeling Municipal Act, 1900, or under any rule or bye-law made under any such clause, a reasonable period shall be prescribed in such notice for carrying such requisition or order into effect.

Time for complying with requisition or order, and power to enforce requisition or order in default of person directed.

(*2*) If any such requisition or order or any portion thereof is not complied with within the period so prescribed or any further period allowed by them, the Commissioners may take such measures, or cause such work to be executed or such things to be done, as may, in their opinion, be necessary for giving due effect to such requisition or order; and the expenses thereof shall be paid by the person or by any one of the persons to whom such requisition or order was addressed.

Sections 7-10.

(*Ben. Act III of 1884, sections 182A-201A.*)

(*3*) The Commissioners may take any measure, execute any work, or cause anything to be done under this section whether or not the person who has failed to comply with the requisition or order is liable to punishment or has been prosecuted or sentenced to any punishment for such failure.

Right to show cause against certain requisitions or orders.

"182B. (*1*) Any person on whom a notice under section 210B, section 210C, section 244V or section 248A is served may, at any time before the expiration of the period or further period prescribed under section 182A for carrying into effect the requisition or order made by the notice, appear before the Commissioners and show cause why such requisition or order should not be complied with.

(*2*) If cause is shown as aforesaid by any such person, the Commissioners shall, after hearing him, either cancel the notice or confirm the same, subject to such modifications (if any) as they may think fit."

Amendment of section 191.

8. For the words "after six hours' notice in writing" in section 191 of the said Act, the words "without giving notice" shall be substituted.

Amendment of section 201.

9. In section 201 of the said Act, for the words "any road" and the words "part of a road" wherever they occur, the words "any public road" and the words "part of a public road" shall respectively be substituted.

Insertion of new sections, 201A to 201G.

10. After section 201 of the said Act the following shall be inserted, namely:—

Absolute closing of public road.

"201A. (*1*) If it appears to the Commissioners that any public road or part thereof—

(*a*) threatens the stability or security of any hillside or bank or any immoveable property thereon, or

(*b*) in consequence of its condition or its situation with reference to any adjacent hillside or bank, cannot

be efficiently maintained or repaired except at a cost, which, in their opinion, is unreasonable,

the Commissioners may, by public notice, declare such road or part to be absolutely closed:

Provided that the Commissioners shall, before declaring any public road or part thereof to be closed, be bound to provide other reasonably sufficient means of access to holdings adjacent to such road or part if no such means of access already exist.

(*2*) From the date of any notice published under sub-section (*1*) in respect of any public road or part thereof, the Commissioners shall not be bound to maintain or repair such road or part; and the site thereof may be disposed of or otherwise dealt with in any manner the Commissioners may think fit:

Provided that, if the Commissioners determine to sell or to let on lease or otherwise transfer any part of such site which is adjacent to any private land or building, the owner of such land or building shall have a prior right to buy or take on lease such part at a reasonable rate.

Control over private roads and bridges.

"201B. All private roads and bridges shall be subject to the inspection and control of the Commissioners.

Control over construction or alteration of private road or bridge.

"201C. (*1*) Every person who intends to construct, reconstruct or alter a private road or bridge shall send to the Commissioners an application for permission to execute the work.

(*2*) Every such application shall be accompanied by the documents or particulars prescribed in this behalf in Schedule A.

(*3*) Every person applying for permission to construct, reconstruct or alter a private road must further mark out on the ground the alignment of the road for inspection by the Commissioners or an officer authorised by them in that behalf.

(*4*) The permission referred to in sub-section (*1*) may be either granted or refused absolutely, or granted subject to any

Section 10.

(*Ben. Act III of 1884, sections 201C-201G.*)

conditions which the Commissioners may think fit to impose in accordance with the rules contained in the said Schedule A.

(*5*) No work referred to in sub-section (*1*) shall be commenced without the written permission of the Commissioners.

Re-construction, etc., of private road or bridge.

"201D. If it appears to the Commissioners that any private road or bridge is so situated or is in such a condition as to threaten the stability or security of any hillside or bank or any immoveable property thereon, they may, by written notice, require the owner—

(*a*) to re-construct, re-grade, divert, alter or repair such road or bridge, or

(*b*) to make a revetment or retaining-wall on either side or both sides of such road, or

(*c*) to take such other order with such road or bridge as may be specified in the notice.

Provision or enlargement of waterway on private road.

"201E. If it appears to the Commissioners that waterway ought to be provided on any private road, or that the waterway provided on any private road ought to be enlarged, they may, by written notice, require the owner of the road—

(*a*) to provide and maintain waterway, or

(*b*) to enlarge the existing waterway, as the case may require.

Rules as to construction, etc., of private roads and bridges.

"201F. Whenever any private road or bridge is to be constructed, re-constructed, re-graded, diverted, altered or repaired, and whenever waterway for any private road is to be provided or enlarged, in pursuance of section 201C, section 201D or section 201E, the work shall be executed in accordance with the rules contained in Schedule A, so far as they are applicable to the particular case.

Power to close private road.

"201G. If it appears to the Commissioners that the existence of any private road threatens the stability or security of any hillside or bank or any immoveable property thereon, they may, by written notice, require the owner to close the road and to

Sections 10, 11.

(*Ben. Act III of 1884, sections 201G-207A.*)

take such order with the site thereof as they may consider necessary for the stability or security of such hillside, bank or property and as may be prescribed in the notice:

Provided that no notice shall be issued under this section in respect of any private road which constitutes the only approach to a building, unless, in the opinion of the Commissioners, another road affording a suitable approach to the building can be constructed at reasonable expense."

Substitution of new sections, 207 and 207A, for section 207.

11. For section 207 of the said Act the following shall be substituted, namely:—

"207. (*1*) Whenever any building, wall, revetment or other erection, or any part thereof, or any stone, tree, soil or *débris* from private premises, falls down and obstructs any public road or drain, the Commissioners may cause the obstruction to be removed.

Removal of materials falling upon or into public road or drain.

(*2*) All stone and trees so removed shall be separately heaped near the spot, and a notice shall be affixed in the vicinity calling upon the persons from whose premises the stone or trees or any of the same has or have fallen to take away the same.

(*3*) If, in the course of removing any obstruction under sub-section (*1*), it be found necessary to break up or blast any stone or to cut up any tree, the work shall be executed by the Commissioners; and, if any persons desire, in pursuance of a notice affixed under sub-section (*2*), to take away any stone or tree which has been so dealt with, they must first pay to the Commissioners the expenses incurred by them under this sub-section.

(*4*) If such stone or trees be not taken away by the said persons within seventy-two hours after the affixing of the said notice, or within any further period allowed by the Commissioners, the same shall become the property of the Commissioners.

"207A. If it appears to the Commissioners that any *débris* which has fallen upon or into any private road or drain ought to be removed, they may—

Removal of *débris* falling upon or into private road or drain.

(*a*) cause such *débris* to be removed, at the expense of the owner of the road or drain, or

Sections 11, 12.

(Ben. Act, III of 1884, sections 207A-210C.)

(*b*) by written notice require the said owner to remove the *débris*."

Insertion of new sections, 210B and 210C.

12. After section 210A of the said Act the following shall be inserted, namely :—

Powers where buildings, &c., threaten the stability of other immoveable property.

"210B. If it appears to the Commissioners that any building or portion of a building, or anything affixed to a building, or any wall or structure on any land, is in such a condition as to threaten the stability or security of any hillside or bank or any immoveable property thereon,

the Commissioners may, by written notice, require the owner of such building or land,—

(*a*) to take down such building, portion, thing, wall or structure and remove the materials, or

(*b*) to secure or repair such building, portion, thing, wall or structure, in such manner as may be prescribed in the notice, or to make a revetment for the support thereof, or to take such other order therewith as may be prescribed in the notice, and

(*c*) in case (*a*), also to take such order with the site of such building, wall or structure, for ensuring the stability or security of any hillside or bank or any immoveable property thereon, as may be prescribed in the notice.

Powers where hillside or bank threatens the safety of buildings.

"210C. If it appears to the Commissioners that the condition or situation of any hillside or bank, being private property, is such as to threaten the safety of any building, and that the safety of such building cannot be ensured by taking action under section 248A, and also that such building threatens the safety of some other building, they may, by written notice, require the owner of such first-mentioned building—

(*a*) to take down the building and remove the materials,

or

(*b*) to secure the building, in such manner as may be prescribed in the notice, or to make a revetment for the support thereof, or to take such other order therewith as may be prescribed in the notice,

and may also, by written notice, require the owner of such other building to secure the same, in such manner as may be prescribed in the notice, or to make a revetment for the support thereof, or to take such other order therewith as may be prescribed in the notice."

Amendment section 220.

13. To section 220 of the said Act the following shall be added, namely:—

"Provided also that the provisions enacted by the Darjeeling Municipal Act, 1900, shall take effect in the Darjeeling Municipality without being expressly extended thereto."

Insertion of new sections, 224A to 224C.

14. After section 224 of the said Act the following shall be inserted, namely:—

Power to define limits of *jhoras*, &c.

"224A. The Local Government may, by notification in the Calcutta Gazette, define, for the purposes of this Act, the limits of any *jhora*, watercourse, channel or natural drainage line.

Control over construction or alteration of private drains.

"224B. (*1*) Every person who intends to construct, reconstruct, alter, stop-up or obstruct any private drain shall send to the Commissioners an application for permission to execute the work.

(*2*) Every such application shall be accompanied by a general description of the drain.

(*3*) The permission referred to in sub-section (*1*) may be either granted or refused absolutely, or granted subject to any conditions which the Commissioners may think fit to impose in accordance with the rules contained in Schedule B.

(*4*) No work referred to in sub-section (*1*) shall be commenced without the written permission of the Commissioners.

Sections 14, 15.

(Ben. Act III of 1884, sections 224C-228.)

Re-construction, repair, etc., of private drains.

"224C. The Commissioners may, by written notice, require the owner of any building or land—

(*a*) to re-construct, enlarge, extend, alter, repair, make efficient, stop-up or remove any drain belonging to such building or land, or

(*b*) to alter the inclination or direction of any such drain, or

(*c*) to provide moveable coverings or gratings for any such drain, of such nature as may be specified in the notice, or

(*d*) to carry any such drain to such point of outlet or of junction with some other drain as may be specified in the notice."

Substitution of new sections for sections 227 and 228.

15. For sections 227 and 228 of the said Act the following shall be substituted, namely:—

Power to require provision of private drain.

"227. If any building or land is not drained to the satisfaction of the Commissioners, they may, by written notice, require the owner to provide a drain therefor, at such inclination, and to such point of outlet or of junction with some other drain, as may be specified in the notice.

Private drainage in combination.

"228. (*1*) If it appears to the Commissioners that any buildings or lands belonging to different owners can be drained, or the drainage thereof improved, more economically or advantageously in combination than separately, the Commissioners may cause such buildings or lands to be drained, or the drainage thereof to be improved, in such manner as they may consider suitable.

(*2*) The Commissioners may cause any drain which has been provided or improved under sub-section (*1*) to be maintained or repaired in such manner as they may consider suitable.

(*3*) All expenses incurred under sub-section (*1*) or sub-section (*2*) in connection with the drainage of any buildings or lands

shall be paid by the owners of such buildings or lands, in proportion to the benefits derived by them respectively.

(*4*) The said proportion shall be determined by the Commissioners.

Insertion of new section, 229A.

16. After section 229 of the said Act the following shall be inserted, namely:—

"229A. Whenever any private drain is to be constructed, re-constructed, enlarged, extended, altered, repaired or otherwise dealt with in pursuance of section 224B, section 224C, section 227 or section 228, the work shall be executed in accordance with the rules contained in Schedule B, so far as they are applicable to the particular case."

Rules as to construction, etc., of private drains.

Insertion of new sections, 236 to 244Z.

17. For sections 236 to 244 of the said Act and the heading prefixed thereto the following shall be substituted, namely:—

"BUILDING REGULATIONS.

"236. (*1*) Except with the previous written permission of the Commissioners, external roofs or walls of buildings shall not, after the commencement of the Darjeeling Municipal Act, 1900, be made of grass, leaves, mats, canvas, shingles or other inflammable material.

Prohibition of inflammable materials for roofs or external walls.

(*2*) The Commissioners may, by written notice, require the owner of any building situated in or near a road and contiguous to or adjoining any other building, and having, at the commencement of the Darjeeling Municipal Act, 1900, an external roof or wall made of any such inflammable material as aforesaid, to remove or alter such roof or wall.

(*3*) Sub-sections (*1*) and (*2*) shall not apply to any garden-hut, orchid-house, fernery or other similar structure within a compound, unless in any particular case the Commissioners consider any such structure to be dangerous.

Section 17.

(Ben. Act III of 1884, sections 237-239.)

"237. After the commencement of the Darjeeling Municipal Act, 1900, no land shall be used as a site for the erection, re-erection or material alteration of a building, and no building shall be erected, re-erected or materially altered, otherwise than in accordance with the provisions of this Act and any rules, bye-laws or orders made under this Act, relating to the use of building-sites or the erection, re-erection or material alteration of buildings, as the case may be.

Use of building-sites, and erection, re-erection and material alteration of buildings.

"*Masonry buildings and framed buildings.*

"238. (*1*) Every person who intends—

(*a*) to erect or re-erect a masonry or framed building, or

(*b*) to materially alter a masonry or framed building in the manner referred to in sub-clause (*e*), sub-clause (*f*), sub-clause (*g*), sub-clause (*h*) or sub-clause (*g*) of clause (*27*) of section 6,

Application for approval of site for erection, re-erection or material alteration of a masonry or framed building.

shall send to the Commissioners an application for approval of the site, together with a site-plan of the land.

(*2*) Every such application and site-plan shall contain the particulars and be prepared in the manner prescribed in this behalf in Schedule C.

"239. Within thirty days after the receipt of any application made under section 238 for approval of a site, or of any information or further information required under Schedule C, the Commissioners shall, by written order, either—

Approval of site when to be given or refused.

(*a*) approve the site, subject to such conditions or modifications (if any) as may be specified in the order, or

(*b*) refuse, on one or more of the grounds mentioned in section 244B, to approve the site.

Section 17.

(Ben. Act III of 1884, sections 240-242.)

"240. (*1*) Every person who intends to erect, re-erect or materially alter a masonry or framed building shall send to the Commissioners an application for permission to execute the work, together with a plan of the building, complete elevations and sections of the work, and a specification of the work.

Application for permission to erect, re-erect or materially alter a masonry or framed building.

(*2*) Every document referred to in sub-section (*1*) shall contain the particulars and be prepared in the manner prescribed in this behalf in Schedule C.

(*3*) Every application under sub-section (*1*) for permission—

(*a*) to erect or re-erect a masonry or framed building, or

(*b*) to materially alter a masonry or framed building in the manner indicated in clause (*b*) of section 238,

must be sent either together with the application sent under section 238 or within a period of six months from the issue, under this Act, of the order (if any) approving the site; and, if any such application be sent after the expiration of the said period, it shall not be received unless a fresh application is made under section 238 for approval of the site.

"241. Permission to erect or re-erect a masonry or framed building, or to materially alter a masonry or framed building in the manner indicated in clause (*b*) of section 238, shall not be given unless and until the Commissioners have approved the site on an application sent to them under section 238.

Permission to erect, re-erect or materially alter a masonry or framed building not to be given unless and until site approved.

"242. The erection, re-erection or material alteration of a masonry or framed building shall not be commenced unless and until the Commissioners—

Work not to be commenced unless and until permission granted.

(*a*) have granted written permission for the execution of the work on an application sent to them under section 240, or

Section 17.

(*Ben. Act III of 1884, sections 242-244A.*)

(*b*) where an appeal or reference has been made to the Engineer appointed under section 351D—have received orders from the Engineer determining that permission to execute the work should be granted.

Permission to execute work when to be granted or refused.

"243. Within thirty days after the receipt of any application made under section 240 for permission to execute any work, or of any information or further information required under Schedule C, the Commissioners shall, by written order, either—

(*a*) grant permission to execute the work, subject to such conditions or modifications (if any) as may be specified in the order, or

(*b*) refuse, on one or more of the grounds mentioned in section 244C, to grant such permission:

Provided that, where the approval of a site is required by this Act, the said period of thirty days shall not in any case begin to run until the site has been approved under this Act.

Record of reasons when approval or permission refused.

"244. Whenever the Commissioners refuse to approve a site for the erection, re-erection or material alteration of a masonry or framed building, or to grant permission to erect, re-erect or materially alter such a building, they shall state specifically the grounds for such refusal.

Reference to appellate Engineer if grant or refusal of approval or permission is delayed.

"244A. If, within the period prescribed by section 239 or section 243, as the case may be, the Commissioners have neither given nor refused their approval of a building-site or their permission to execute any work, as the case may be, the Engineer appointed under section 351D shall be bound, on a written reference being made to him by the applicant within six months after the expiration of the said period, to determine forthwith, by written order, whether such approval or permission should be given or not.

Section 17.

(Ben. Act III of 1884, sections 244B, 244C.)

"244B. The only grounds on which approval of a site for the erection, re-erection or material alteration of a masonry or framed building may be refused are the following, namely :—

Grounds on which approval of site may be refused.

(*1*) that the site is not, in the opinion of the Commissioners, or (where an appeal or reference has been made to the Engineer appointed under section 351D) the Engineer, a safe site for the erection, re-erection or alteration of the building ;

(*2*) that the erection, re-erection or alteration of the building upon the site would, in the opinion of the Commissioners or (where an appeal or reference has been made to the Engineer appointed under section 351D) the Engineer, threaten the stability or security of some hillside or bank or some immoveable property thereon ;

(*3*) that any particulars comprised in the site-plan would contravene some specified provision of this Act or some specified rule, bye-law or order made hereunder ;

(*4*) that the application for such approval, or the site-plan, does not contain the particulars or is not prepared in the manner prescribed in Schedule C ; or

(*5*) that any information required under the said Schedule has not been duly furnished.

"244C. The only grounds on which permission to erect, re-erect or materially alter a masonry or framed building may be refused are the following, namely :—

Grounds on which permission to execute work may be refused.

(*1*) that, having regard to the site, to the plan of the building, to the elevations, sections and specification of the work, and to the information and documents (if any) furnished to the Commissioners, the building, in the opinion of the Commissioners or (where an appeal or reference has been made to the Engineer appointed under section 351D) the Engineer,—

(*a*) would not be safe for human habitation, or

Section 17.

(*Ben. Act III of 1884, sections 244C-244E.*)

(*b*) would threaten the stability or security of some hillside or bank or some immoveable property thereon;

(*2*) that the work, or any of the particulars comprised in the building-plan, elevations, sections or specification, would contravene some specified provision of this Act or some specified rule, bye-law or order made hereunder;

(*3*) that the application for such permission does not contain the particulars or is not prepared in the manner prescribed in Schedule C; or

(*4*) that any information required under the said Schedule has not been duly furnished.

Lapse of permission if not acted upon within six months.

"244D. (*1*) If the erection or re-erection of any masonry or framed building, or the material alteration of any such building in the manner indicated in clause (*b*) of section 238, is not commenced within six months after the date on which permission was given to execute the work, the work shall not be commenced until fresh applications have been made under sections 238 and 240 and fresh approval and permission have been given under this Act.

(*2*) If any other material alteration of a masonry or framed building is not commenced within six months after the date on which permission was given to execute the work, the work shall not be commenced until a fresh application has been made under section 240 and a fresh permission granted under this Act.

Notice before commencing building work, and inspection of site.

"244E. (*1*) When any site, after having been approved under this Act, has been prepared for building-work, the owner of the building shall, not less than three days before building-work is commenced, send to the Commissioners a written notice specifying the date on which it is proposed to commence such work.

Section 17.

(*Ben. Act III of 1884, sections 244E-244H.*)

(*2*) The Commissioners, or the Municipal Engineer, if authorised by them in that behalf, may thereupon inspect the site; and, if it appears to the Commissioners that the site is in such a condition as to render the building unsafe, or that the proposed work would threaten the stability or security of any hillside or bank or any immoveable property thereon, they may, by written order, withdraw their permission to execute the work, and may, if they think fit, by a like order grant a fresh permission subject to such conditions for ensuring safety as they may consider necessary.

Notice after completion of building-work.

"244F. Within fifteen days after the erection, re-erection or material alteration of any masonry or framed building has been completed, the owner shall send to the Commissioners a written notice of the fact.

Inspection of building.

"244G. The Commissioners, or any officer authorised by them in that behalf, may, at any time during the erection, re-erection or material alteration of any masonry or framed building, or within one month after the receipt of the notice sent under section 244F with respect to any building, inspect such building, without giving previous notice of the intention so to do.

Powers on inspecting building.

"244H. (*1*) If, when any such inspection is made, the Commissioners find that the building is being or has been constructed—

(*a*) otherwise than in accordance with the plans approved under this Act, or

(*b*) in such a way as to contravene any of the provisions of this Act or any rule, bye-law or order made hereunder,

they may, by written notice, require the owner of the building either—

(*i*) to make such alterations as may be specified in the notice with the object of bringing the work into conformity with the said plans or provisions, or

Section 17.

(*Ben. Act III of 1884, sections 244H-244L.*)

(*ii*) to appear before them and show cause why such alterations should not be made.

(*2*) If such owner does not appear and show cause as aforesaid, he shall be bound to make the alterations specified in such notice.

(*3*) If such owner appears and shows cause as aforesaid, the Commissioners shall, after hearing him, cancel the notice issued under sub-section (*1*) or confirm the same subject to such modifications (if any) as they may think fit.

"*Huts.*

Application for permission to erect, re-erect or materially alter a hut.

"244J. (*1*) Every person who intends to erect, re-erect or materially alter a hut shall send to the Commissioners an application for permission to execute the work.

(*2*) Every such application shall contain the particulars and be prepared in the manner prescribed in this behalf in Schedule C.

Work not to be commenced unless and until permission given.

"244K. The erection, re-erection or material alteration of a hut shall not be commenced unless and until the Commissioners—

(*a*) have granted written permission for the execution of the work on an application sent to them under section 244J, or

(*b*) where an appeal or reference has been made to the Engineer appointed under section 351D—have received orders from the Engineer determining that permission to execute the work should be granted.

Permission to execute work when to be given or refused.

"244L. Within fourteen days after the receipt of any application made under section 244J for permission to erect, re-erect or materially alter a hut, or of any information or further information required under Schedule C, the Commissioners shall, by written order, either—

(*a*) grant such permission, subject to such conditions or modifications (if any) as may be specified in the order, or

Section 17.

(*Ben. Act III of 1884, sections 244L-244O.*)

(*b*) refuse, on one or more of the grounds mentioned in section 244-O, to grant such permission.

Record of reasons when permission refused.

"244M. Whenever the Commissioners refuse to grant such permission as aforesaid, they shall state specifically the grounds for such refusal.

Reference to appellate Engineer if grant or refusal of permission is delayed.

"244N. If, within the period prescribed by section 244L, the Commissioners have neither granted nor refused permission to erect, re-erect or materially alter a hut, the Engineer appointed under section 351D shall be bound, on a written reference being made to him by the applicant within six months after the expiration of the said period, to determine forthwith, by written order, whether such permission should be granted or not.

Grounds on which permission to erect, re-erect or materially alter a hut may be refused.

"244-O. The only grounds on which permission to erect, re-erect or materially alter a hut may be refused are the following, namely:—

(*1*) in the case of erection or re-erection, or of any material alteration of the kind indicated in clause (*b*) of section 238, that the site is, in the opinion of the Commissioners or (where an appeal or reference has been made to the Engineer appointed under section 351D) the Engineer, an unsafe site for a hut;

(*2*) that the work would, in the opinion of the Commissioners or (where an appeal or reference has been made to the Engineer appointed under section 351D) the Engineer, threaten the stability or security of some hillside or bank or some immoveable property thereon;

(*3*) that the work would contravene some specified provision of this Act or some specified rule, bye-law or order made hereunder;

Section 17.

(*Ben. Act III of 1884, sections 244O-244R.*)

(*4*) that the application for such permission does not contain the particulars or is not prepared in the manner prescribed in Schedule C ; or

(*5*) that any information required under the said Schedule has not been duly furnished.

"244P. If the erection, re-erection or material alteration of any hut is not commenced within six months after the date on which permission was granted to execute the work, the work shall not be commenced until a fresh application has been made and a fresh permission granted under this Act.

Lapse of permission if not acted upon within six months.

"244Q. (*1*) If any site be specially prepared for erecting, re-erecting or materially altering a hut in pursuance of any permission granted under this Act, the owner of the hut shall, not less than three days before building-work is commenced, send to the Commissioners a written notice specifying the date on which it is proposed to commence such work.

Notice before commencing building-work, and inspection.

(*2*) The Commissioners, or the Municipal Engineer, if authorised by them in that behalf, may thereupon inspect the site, and, if it appears to the Commissioners that the site is in such a condition as to render the hut unsafe, or that the proposed work would threaten the stability or security of any hillside or bank or any immoveable property thereon, they may, by written order, withdraw their permission to execute the work, and may, if they think fit, by a like order, grant a fresh permission subject to such conditions for ensuring safety as they may consider necessary.

"*Exemptions.*

"244R. The following buildings shall be exempted from the operation of sections 240 to 244Q, except in so far as those sections relate to sites, that is to say—

Exemptions.

(*a*) any building erected and used, or intended to be erected and used, exclusively for the purpose of a plant-house, summer-house (not being a dwelling-house),

Section 17.

(*Ben. Act III of 1884, sections 244R-244S.*)

poultry-house or aviary, provided the building be wholly detached from, and situated at a distance of at least ten feet from, the nearest adjacent building; and

(*b*) any building of a temporary character erected or intended to be erected by, or with the sanction of, the Commissioners for use solely as a hospital for the reception and treatment of persons suffering from any infectious or contagious disease.

"DEMOLITION, ALTERATION AND STOPPING OF WORK.

Demolition or alteration of work unlawfully commenced, carried on or completed.

"244S. If the Commissioners are satisfied—

(*1*) that any work referred to in section 201C, sub-section (*1*), or section 224B, sub-section (*1*), or the erection, re-erection or material alteration of any building—

(*a*) has been commenced without obtaining the permission of the Commissioners, or (where an appeal or reference has been made to the Engineer appointed under section 351D) without waiting until the Commissioners have received the orders of the Engineer, or in contravention of any orders passed by him, or

(*b*) is being carried on or has been completed otherwise than in accordance with the particulars on which such permission or orders was or were based, or

(*c*) is being carried on or has been completed after such permission has been withdrawn, or

(*d*) is being carried on or has been completed in breach of any provision contained in this Act or in any rules or byelaws made hereunder, or of any condition, modification, direction or requisition lawfully imposed, made or given under this Act or such rules or bye-laws, or

Section 17.

(Ben. Act III of 1884, sections 244S-244V.)

(*2*) that any alterations required by any notice issued under section 244H have not been duly made,

the Commissioners may apply to the Magistrate, and such Magistrate may make an order—

(*i*) directing that the work done, or so much of the same as has been unlawfully executed, be demolished by the owner or altered by him to the satisfaction of the Commissioners, as the case may require, or

(*ii*) directing that the work done, or so much of the same as has been unlawfully executed, be demolished or altered by the Commissioners at the expense of the owner:

Provided that the Magistrate shall not make any such order without giving the owner full opportunity of adducing evidence and of being heard in defence.

"244T. (*1*) In any case in which any work referred to in section 244S has been unlawfully commenced or is being unlawfully carried on, the Commissioners may, by written notice, require the person carrying on the work to stop the same pending the decision of the Magistrate on an application made to him under that section.

Power to stop progress of work unlawfully commenced or carried on.

(*2*) If any work be carried on upon any premises in contravention of a notice issued under sub-section (*1*), any person directing or carrying on such work may, under the orders of the Commissioners, be removed from the premises by any police-officer.

"244U. When any person is liable to be directed to demolish work and to pay a fine under this Act, both those directions may be given at the discretion of the Magistrate.

Demolition and fine cumulative.

"CONTROL OVER OCCUPATION OF BUILDINGS.

"244V. (*1*) If it appears to the Commissioners that any building or the site thereof is, in consequence of its condition or of its situation with reference to any hillside or bank, unsafe,

Power to prohibit occupation of unsafe or insanitary building.

Section 17.

(Ben. Act III of 1884, sections 244V-244X.)

they may, by written notice, prohibit the owner or any other person from occupying or continuing to occupy the building or from permitting it to be occupied until the building or the site, as the case may be, is rendered safe to the satisfaction of the Commissioners.

(*2*) If it appears to the Commissioners that the drainage of, or the latrine accommodation provided for, any masonry or framed building is defective,

they may, by written notice, prohibit the owner from letting the building for occupation until the defects have been remedied to their satisfaction.

Power to remove persons occupying unsafe building.

"244W. If any person occupies or continues to occupy any building in contravention of any notice issued under sub-section (*1*) of section 244V, he may, under the orders of the Commissioners, be removed from the building by any police-officer.

Prohibition of use of unfit building for human habitation.

"244X. (*1*) If, for any reason, any building intended for or used as a dwelling-place appears to the Commissioners to be unfit for human habitation, they may apply to the Magistrate to prohibit the further use of such building for such purpose; and the Magistrate may, by written order, make a prohibition as aforesaid or may pass such other order as he may deem just and proper:

Provided that the Magistrate shall not make any order under this sub-section without giving the owner and occupier of the building full opportunity of adducing evidence and of being heard in defence.

(*2*) When any such prohibition has been made, no owner or occupier of such building shall use the same or suffer it to be used for human habitation until the Commissioners certify in writing that the causes rendering it unfit for human habitation have been removed to their satisfaction, or the Magistrate, by written order, withdraws the prohibition aforesaid.

Section 17.

(Ben. Act III of 1884, sections 244Y, 244Z.)

"244Y. (*1*) If it appears to the Commissioners that any dwelling-house, or any hut which is used as a dwelling-place, or any room in any such house or hut, is so overcrowded as to endanger the health of the inmates thereof, they may apply to the Magistrate to abate such overcrowding;

Abatement of overcrowding in dwelling-house or dwelling-place.

and the Magistrate may, by written order, require the owner of the building or room, within a reasonable time, to be prescribed in the said order, to abate such overcrowding by reducing the number of lodgers, tenants or other inmates of the building or room,

or may pass such other order as he may deem just and proper:

Provided that the Magistrate shall not make any order under this sub-section without giving the owner and occupier of the building or room full opportunity of adducing evidence and of being heard in defence.

(*2*) The Commissioners may, by written order, declare what amount of superficial and cubic space shall be deemed, for the purposes of sub-section (*1*), to be necessary for each occupant of a building or room.

(*3*) If the owner of any building or room referred to in sub-section (*1*) has sub-let the same, the landlord of the lodgers, tenants or other actual inmates of the same shall, for the purposes of this section, be deemed to be the owner of the building or room.

(*4*) It shall be incumbent on every tenant, lodger or other inmate of a building or room to vacate on being required by the owner so to do in pursuance of any requisition made under sub-section (*1*).

"ROOF-GUTTERS AND DOWN-PIPES OR PLATFORMS.

"244Z. (*1*) The Commissioners may, by written notice, require the owner or occupier of any building—

Provision, &c., of roof-gutters and down-pipes or masonry platforms.

(*a*) to provide and maintain a sufficient number of suitable roof-gutters and down-pipes or masonry

platforms for carrying water from the roof of the building into such drains as may be specified in the notice, or

(*b*) to renew, alter, repair or remove any such gutters, pipes or platforms already provided for the building.

(*2*) The said gutters must be of such dimensions and have such slope, and the said pipes must be of such dimensions, and the bends in such pipes must be made at such angles, as may be prescribed by rules made by the Commissioners at a meeting."

Insertion of new sections, 248A to 248E.

18. After section 248 of the said Act the following shall be inserted, namely:—

"REVETTING, TURFING AND SLOPING.

Power to require revetting, turfing or sloping.

"248A. If it appears to the Commissioners that the condition or the situation of any land, being private property, is such as to threaten the stability or security of any hillside or bank or any immoveable property thereon, the Commissioners may, by written notice, require the owner of the land to do all or any of the following things, namely:—

(*a*) to construct and maintain a revetment, retaining-wall or toe-wall upon any part of the land;

(*b*) to re-construct, enlarge, strengthen, alter or repair any revetment, retaining-wall or toe-wall already standing on the land;

(*c*) to turf the land or any portion thereof;

(*d*) to slope the land or any portion thereof.

Execution of work where owners of adjacent property would be benefited.

"248B. If any owner to whom a notice is issued under section 248A represents to the Commissioners, within fifteen days after the service of the notice, that the work required by the notice will directly and substantially benefit the owners of any adjacent buildings or land,

Section 18.

(*Ben. Act III of 1884, sections 248B-248E.*)

the Commissioners may, after hearing all the owners concerned, themselves cause the said work to be executed;

and the expenses thereby incurred shall be recovered from any or all of such owners, in such proportions as the Commissioners may direct.

"248C. If it appears to the Commissioners that buildings or lands belonging to two or more owners can be protected, by the execution of works of the nature referred to in section 248A, more economically or advantageously in combination than separately,

Power to execute works in combination.

the Commissioners may themselves cause such works or any of them to be executed, maintained and kept in repair;

and the expenses thereby incurred shall be recovered from the said owners, in such proportions as the Commissioners may direct.

"248D. Notwithstanding anything contained in section 248A, the Commissioners may at any time themselves cause any revetment, retaining-wall or toe-wall to be constructed, re-constructed, enlarged, strengthened, altered or repaired on any private land immediately abutting upon any public road, drain, revetment or retaining-wall;

Power to execute works where public road, drain, revetment or retaining-wall is affected.

and the expenses thereby incurred shall be paid by the Commissioners and the owner of such land, in such proportions as the Commissioners may direct.

"248E. Whenever any revetment, retaining-wall or toe-wall is to be constructed, re-constructed, enlarged, strengthened, altered or repaired, or any land is to be turfed or sloped, in pursuance of section 201D, section 210B, section 210C, section 248A, section 248B, section 248C or section 248D, the work shall be executed in accordance with the rules contained in Schedule D, so far a they are applicable to the particular case."

Rules as to revetting, turfing and sloping.

Section 19.

(Ben. Act III of 1884, section 272A.)

Insertion of new sections, 272A to 272E.

19. After section 272 of the said Act the following shall be inserted, namely:—

"272A. Whoever—

Fine for certain offences.

(*a*) contravenes any provision of any of the clauses of this Act mentioned in the first column of the following table, or

(*b*) fails to comply with any requisition lawfully made upon him or any direction lawfully given to him under any of the said clauses,

shall be punished with fine which may extend to the amount mentioned in that behalf in the third column of the said table.

Explanation.—The entries in the second column of the following table, headed "Subject," are not intended as definitions of the offences described in the clauses mentioned in the first column, or even as abstracts of those clauses, but are inserted merely as references to the subject of the clause, the number of which is given in the first column.

1	2	3
Clauses.	Subject.	Fine which may be imposed.
Section 201D ...	Requsition to re-construct, etc., a private road or bridge.	Five hundred rupees.
„ 201E ...	Requisition to provide and maintain, or to enlarge, waterway.	Two hundred and fifty rupees.
„ 201F ...	Construction, etc., of private road or bridge.	Two hundred and fifty rupees.
„ 201G ...	Requisition to close a private road.	Two hundred and fifty rupees.
„ 207A, clause (*b*).	Requisition to remove *debris* falling upon or into a private road or drain.	Fifty rupees.
„ 210B ...	Requisition to take down a building, etc., where buildings, etc., threaten the stability of other immoveable property.	Five hundred rupees.

Section 19.

(*Ben. Act III of 1884, section 272A.*)

1	2	3
Clauses.	Subject.	Fine which may be imposed.
Section 210C ...	Requisition to take down a building, etc., where hillside or bank threatens the safety of buildings.	Five hundred rupees.
„ 224C ...	Requisition to re-construct, etc., a private drain.	Two hundred and fifty rupees.
„ 227 ...	Requisition to provide a drain...	Two hundred and fifty rupees.
„ 229A ...	Construction, etc, of private drain.	Two hundred and fifty rupees.
„ 236, sub-section (1).	Construction of external roofs or walls with inflammable material.	Twenty-five rupees.
„ 236, sub-section (2).	Requisition to remove or alter external wall or roof made of inflammable material.	Twenty-five rupees.
„ 244E, sub-section (1).	Sending written notice to Commissioners before commencing building work.	Fifty rupees.
„ 244F ...	Sending written notice to Commissioners after completion of building work.	Fifty rupees.
„ 244Q, sub-section (1).	Sending written notice to Commissioners before commencing building work.	Twenty-five rupees.
„ 244T, sub-section (1).	Requisition to stop work pending decision of Magistrate.	Five hundred rupees.
„ 244V, sub-section (1).	Prohibition of occupation of unsafe building.	Two hundred and fifty rupees in the case of a masonry or framed building and twenty-five rupees in the case of a hut.
„ 244V, sub-section (2).	Prohibition of occupation of insanitary building.	Fifty rupees.
„ 244X, sub-section (2).	Using building declared unfit for human habitation.	Fifty rupees.
„ 244Y, sub-section (1).	Requisition to abate overcrowding in building or room.	Fifty rupees.
„ 244Y, sub-section (4).	Requisition to vacate overcrowded building or room.	Ten rupees.
„ 244Z, sub-section (1).	Requisition to provide, repair, etc., roof-gutters and down-pipes or masonry platforms.	One hundred rupees.
„ 248A ...	Requisition to construct revetment, etc.	Five hundred rupees.
„ 248E ...	Revetment, turfing and sloping.	Two hundred and fifty rupees.

Section 19.

(*Ben. Act III of 1884, section 272B.*)

"272B. Whoever, after having been convicted of failing to comply with any requisition lawfully made upon him or any direction lawfully given to him under any of the clauses of this Act mentioned in the first column of the following table,

Continuing fine for certain offences.

continues to neglect to comply with the said requisition or direction,

shall be punished, for each day after the first during which he continues so to offend, with fine which may extend to the amount mentioned in that behalf in the third column of the said table.

Explanation.—The entries in the second column of the following table, headed "Subject," are not intended as definitions of the offences described in the clauses mentioned in the first column, or even as abstracts of those clauses, but are inserted merely as references to the subject of the clause, the number of which is given in the first column.

1	2	3
Clauses.	Subject.	Daily fine which may be imposed.
Section 201D ...	Requisition to re-construct, etc., a private road or bridge.	One hundred rupees.
„ 201E ...	Requisition to provide and maintain, or to enlarge, waterway.	Fifty rupees.
„ 201G ...	Requisition to close a private road.	Fifty rupees.
„ 207A, clause (*b*).	Requisition to remove *debris* falling upon or into a private road or drain.	Ten rupees.
„ 210B ...	Requisition to take down a building, etc., where buildings, etc, threaten the stability of other immoveable property.	One hundred rupees.
„ 210C ...	Requisition to take down building, etc., where hillside or bank threatens the safety of buildings.	One hundred rupees.

Section 19.

(Ben. Act III of 1884, sections 272B, 272C.)

1	2	3
Clauses.	Subject.	Daily fine which may be imposed.
Section 224C ...	Requisition to re-construct, etc., a private drain.	Fifty rupees.
227 ...	Requisition to provide a drain...	Fifty rupees.
244V, sub-section (*1*).	Prohibition of occupation of unsafe building.	Fifty rupees in the case of a masonry or framed building, and five rupees in the case of a hut.
244V, sub-section (*2*).	Prohibition of occupation of insanitary building.	Ten rupees.

"272C. If any work referred to in section 201C, sub-section (*1*), or section 224B, sub-section (*1*), or the erection, re-erection or material alteration of any building—

Fine for unlawfully commencing, carrying on or completing work.

(*a*) is commenced without obtaining the permission of the Commissioners, or (where an appeal or reference has been made to the Engineer appointed under section 351D) without waiting until the Commissioners have received the orders of the Engineer, or in contravention of any orders passed by him, or

(*b*) is carried on or completed otherwise than in accordance with the particulars on which such permission or orders was or were based, or

(*c*) is carried on or completed after such permission has been withdrawn, or

(*d*) is carried on or completed in breach of any provision contained in this Act or in any rules or bye-laws made hereunder, or of any condition, modification, direction or requisition lawfully imposed, made or given under this Act or such rules or bye-laws, or

Section 19.

(*Ben. Act III of 1884, sections 272C-272E.*)

if any alterations required by any notice issued under section 244H be not duly made,

the owner shall be liable to fine which may extend, in the case of a road bridge, drain or masonry or framed building, to five hundred rupees, and in the case of a hut to fifty rupees, and

to further fine which may extend, in the case of a road, bridge, drain or masonry or framed building, to one hundred rupees, and in the case of a hut to ten rupees, for each day after conviction during which the offence is continued.

Fine for disobedience of direction for demolition or alteration where work unlawfully commenced, carried on or completed.

"272D. If any person to whom a direction to demolish or alter work is given under clause (*i*) of section 244S fails to obey the same, he shall be liable

to fine which may extend, in the case of a road, bridge, drain or masonry or framed building, to five hundred rupees, and in the case of a hut to fifty rupees, and

to further fine which may extend, in the case of a road, bridge, drain or masonry or framed building, to one hundred rupees, and in the case of a hut to ten rupees, for each day after conviction during which he so fails.

Fine for using building for carrying on offensive trade without previous declaration.

"272E. When a building has been erected, re-erected or materially altered under this Act without any statement having been made, under rule 23 or rule 28 of Schedule C, that it was intended to use the building or any part thereof for any of the purposes specified in section 261, or as a stable, cattle-shed or cow-house, then any person using the building or any part thereof for any of those purposes shall be liable,—

(*a*) in the case of a masonry or framed building, to fine which may extend to two hundred rupees, and to further fine which may extend to twenty rupees for each day after conviction during which he continues such use, and

Sections 19, 20.

(*Ben. Act III of 1884, sections 272E-350A.*)

(*b*) in the case of a hut, to fine which may extend to twenty rupees, and to further fine which may extend to five rupees for each day after conviction during which he continues such use."

Insertion of new sections, 350A and 350B.

20. For section 350A of the said Act the following shall be substituted, namely :—

Additional power to make bye-laws.

"350A. (*1*) The Commissioners, at a meeting which has been convened expressly for the purpose and of which due notice has been given, may, from time to time, make bye-laws for enforcing, prohibiting or regulating the doing of any act which may, in the opinion of the Commissioners, affect the stability or security of any hillside or bank or any immoveable property thereon.

(*2*) In particular, and without prejudice to the generality of the foregoing power, the Commissioners at a meeting as aforesaid may make bye-laws for all or any of the following purposes, namely :—

(*a*) prohibiting or regulating the making of excavations, the cutting of hillsides or banks and the removal of soil from hillsides or banks;

(*b*) prohibiting or regulating quarrying;

(*c*) prohibiting or regulating the removal of stones from hillsides, banks, *jhoras* or sites of landslips;

(*d*) for preventing or regulating the grazing or straying of cattle on hillsides or banks;

(*e*) for preventing the straying of poultry;

(*f*) for enforcing or regulating the cutting, trimming or removal of trees, shrubs, bamboos, bushes or hedges bordering on, overhanging or obstructing any road or drain, or causing, or being likely to cause, damage or injury to any road or drain or to any person using any road;

(*g*) for enforcing, regulating or prohibiting the cutting or destroying of trees, shrubs, bamboos or plants;

(*h*) for enforcing, regulating or prohibiting the making of, or for regulating the maintenance of, gardens or garden-terraces;

(*j*) for prohibiting or regulating the making of holes or the placing of loose earth for or around trees, shrubs, bamboos or plants;

(*k*) for enforcing or regulating the planting and maintenance of particular kinds of trees, shrubs, bamboos or plants on land, where, in the opinion of the Commissioners, such enforcement or regulation is necessary or desirable with a view to the better protection of any hillside or bank from landslips.

(*3*) The word 'cattle', as used in clause (*d*), shall have the same meaning as in the Cattle-trespass Act, 1871.

"350B. The Commissioners may, by any bye-law made under section 350A, declare that any person committing a breach of any such bye-law, or failing to comply with any notice issued thereunder, shall be liable to fine which may extend to fifty rupees and to further fine which may extend to twenty rupees for each day after conviction during which the offence is continued."

Fines for breach of bye-laws made under section 350A.

Insertion of new sections, 351B to 351H.

21. After section 351A of the said Act the following shall be inserted, namely:—

"351B. (*1*) The Local Government may make rules to regulate any of the matters referred to in sections 201F, 229A, 237 and 248E, and may by such rules alter, add to or cancel any of the rules contained in Schedules A, B, C and D, respectively.

Power to make rules for the amendment of Schedules A, B, C and D.

(*2*) All references in this Act to any of the aforesaid Schedules shall be construed as referring to such Schedule as for

Section 21.

(*Ben. Act III of 1884, section 351C.*)

the time being amended in exercise of the powers conferred by sub-section (*1*).

Power of entry to inspect, survey or execute work.

"351C. The Commissioners, or any officer in receipt of a salary of not less than fifty rupees *per mensem* who may be authorised by them in that behalf, may enter into or upon any building or land, with or without assistants or workmen, in order to make any inspection, survey, measurement, valuation or inquiry or execute any work which is authorized by any of the clauses enacted by the Darjeeling Municipal Act, 1900, or by any rule or bye-law made under any such clause, or which it is necessary, for any of the purposes or in pursuance of any of the provisions of any such clause, rule or bye-law, to make or execute:

Provided as follows:—

(*a*) except when it is in this Act otherwise provided, no such entry shall be made between sunset and sunrise;

(*b*) except when it is in this Act otherwise provided, no dwelling-house, and no hut which is used as a dwelling-place, shall be so entered, unless with the consent of the occupier thereof, without giving the said occupier of at least six hours' previous written notice of the intention to make such entry;

(*c*) sufficient notice shall in every instance be given, even when any premises may otherwise be entered without notice, to enable the inmates of any apartment appropriated to females to remove to some part of the premises where their privacy need not be disturbed;

(*d*) due regard shall always be had, so far as may be compatible with the exigencies of the purpose for which the entry is made, to the social and religious usages of the occupants of the premises entered.

Section 21.

(Ben. Act III of 1884, sections 351D-351G.)

"351D. (*1*) The Local Government may, by notification in the Calcutta Gazette, appoint an Engineer to hear appeals under this Act.

Appeal to specially appointed Engineer.

(*2*) An appeal shall lie to the said Engineer from any order (not being an order apportioning expenses) or requisition made under section 201C, sub-section (*4*), section 210, section 210B, section 210C, section 224B, sub-section (*3*), section 228, section 239, clause (*b*), section 243, clause (*b*), section 244E, sub-section (*2*), section 244H, sub-section (*1*) or sub-section (*3*), section 244L, clause (*b*), section 244Q, sub-section (*2*), section 244V, section 248A, section 248B, section 248C or section 248D.

"351E. An appeal shall lie to the Commissioner of the Division from any order apportioning expenses incurred in pursuance of section 228, section 248B, section 248C or section 248D.

Appeal to Commissioner of the Division.

"351F. Every appeal under section 351D or section 351E must be presented within a period of thirty days after the date of the order or requisition against which the appeal is made:

Limitation of time for appeal.

Provided as follows:—

(*a*) if in any case the said period expires on a day when the office of the aforesaid Engineer or Commissioner is closed, the appeal may be presented on the day that the said office is re-opened;

(*b*) any appeal may be admitted after the expiration of the said period when the appellant satisfies the appellate authority that he had sufficient cause for not presenting the appeal within such period.

"351G. (*1*) In dealing with any appeal preferred to him under section 351E, the Commissioner shall be assisted by two assessors, who shall be selected and summoned by him for each appeal or group of appeals from a list to be prepared annually by the Deputy Commissioner:

Assessors in appeals to Commissioner of the Division.

Provided that, if any assessor so summoned fails to appear, the appeal may be heard in his absence.

Sections 21-25.

(*Ben. Act III of 1884, sections 351G-351H.*)

(*2*) The assessors, if present, shall be consulted by the Commissioner, and their opinion shall be recorded in writing; but the Commissioner shall not be bound to conform to their opinions.

"351H. (*1*) If the Engineer appointed under section 351D, or the Commissioner of the Division, rejects any appeal preferred to him under this Act, he shall by written order specifically state the grounds for such rejection.

Record of decision on appeal or reference.

(*2*) The said Engineer shall, when deciding any reference made to him under this Act, specifically state in writing the grounds for his decision.

(*3*) A copy of all orders passed by the said Engineer or Commissioner on any such appeal or by the said Engineer on any such reference shall forthwith be forwarded by him to the Commissioners, who shall thereupon inform the appellant, or the person who made the reference, as the case may be, of such orders."

22. After the sixth Schedule to the said Act the Schedules marked respectively A, B, C and D shall be added. Addition of new Schedules, A to D.

23. The portions of the said Act mentioned in the first column of Schedule E are repealed to the extent mentioned in the second column of that Schedule. Repeal.

PART II.—TEMPORARY PROVISIONS.

24. This Part shall only continue in force until the publication in the Calcutta Gazette of a notification by the Local Government declaring that it shall cease to have effect. Temporary operation of Part II.

25. (*1*) Every claim for compensation from the Municipal Fund for damage sustained by reason of the exercise of any power conferred by any clause enacted by this Act shall be referred to the Commissioner of the Division. Compensation.

(*2*) Every such reference must, except as provided in clauses (*a*) and (*b*) of section 351F of the Bengal Municipal Act, 1884, be made within one year after the exercise of the said power; and the

Ben. III of 1884.

provisions of sections 351G and 351H of the said Act, as to appeals, shall apply thereto.

(*3*) No compensation shall be payable under section 362 of the said Bengal Municipal Act, 1884, for any damage referred to in sub-section (*1*) of this section, except under the orders of the Commissioner of the Division. Ben. III 1884.

Substitution of Local Government for Commissioners.

26. All clauses enacted by this Act, other than section 3, shall be read as if the words "the Local Government" were substituted for the words "the Commissioners" and "the Commissioners at a meeting."

Further amendment of Bengal Act III of 1884.

27. The portions of the Bengal Municipal Act, 1884, which are mentioned in the first column of Schedule F shall be read subject to the amendments respectively indicated in the second column of that Schedule. Ben. III 1884.

Delegation of certain of Local Government's powers and duties.

28. (*1*) The Local Government may, by notification in the Calcutta Gazette, delegate to any officer any of the powers or duties conferred or imposed on the Local Government by any portion of the Bengal Municipal Act, 1884, other than the portions mentioned in Schedule G. Ben. III 1884.

(*2*) In the exercise or performance of any powers or duties delegated to any officer under sub-section (*1*), such officer shall be subject to the control of the Local Government.

SCHEDULE A.

RULES AS TO PRIVATE ROADS AND BRIDGES.

(*See sections 201C, 201F and 351B.*)

Part I.—Roads.

1. (*1*) Every application for permission to construct, re-construct or alter a private road other than a footpath must be accompanied by—

Application for permission to construct, re-construct or alter a private road.

(*a*) a plan of the road, showing cross-sections,

(*b*) type-drawings of all bridges to be provided or already provided for the road, and

(*Schedule A.—Rules 1-7.*)

(*c*) a description of the provision which it is intended to make or which already exists in respect of retaining-walls and revetments (if any) and drainage.

(*2*) Every application for permission to construct, re-construct or alter a private footpath must be accompanied by a full description of the path.

Slope.

2. (*1*) A private road must be so constructed as to have a slope inwards towards the hillside.

(*2*) Such slope must be not less than the gradient of the road.

Retaining walls and revetments.

3. (*1*) Whenever the Commissioners so direct, the outer edge of a private road must be protected by retaining-walls, and the inner cutting by revetments.

(*2*) Such walls and revetments must be of such number and must be placed in such positions as the Commissioners may direct, and must be constructed in accordance with the rules contained in Schedule D.

Drain.

4. A stone-lined drain must be provided on the inner side of a private road, where such side is not rock.

Part II. Bridges.

Application for permission to construct, re-construct or alter a private bridge.

5. Every application for permission to construct, re-construct or alter a private bridge must be accompanied by drawings of the bridge.

Waterway.

6. A private bridge must be constructed so as to leave sufficient water-way to pass the *maximum* discharge of the channel spanned by the bridge.

Slope of flooring under bridge.

7. The flooring placed in the bed of the channel under a private bridge must, as far as practicable, be laid at the same slope as that of the channel.

(*Schedule A.—Rules 8, 9. Schedule B.—Rules 1-4.*)

Pocket above bridge.

8. When a pocket for the deposit of *débris* is cut in the hillside above a private bridge, otherwise than in solid rock, such pocket must be lined with masonry walling.

Substitution of gratings for culverts.

9. Where a small drain is crossed by a private road, a wooden or iron grating must, if the Commissioners so direct, be laid over the drain, instead of a covered culvert.

SCHEDULE B.

RULES AS TO PRIVATE DRAINS.

(*See sections 224B, 229A and 351B.*)

Construction of drains for sullage water.

1. Drains for sullage water must be constructed—

(*a*) with round or half-round tiles bedded in concrete, or

(*b*) with U-shaped stone masonry set in lime mortar and plastered over the inner surface with Portland cement, or

(*c*) with U-shaped stone concrete.

Construction of drains for surface water.

2. (*1*) Drains for surface water only may be constructed either of dry rubble masonry or of any other material approved by the Commissioners, and may be either rectangular or U-shaped or V-shaped in section.

(*2*) Such drains shall not be connected with any drain carrying sullage water or sewage.

Drains to be open.

3. Except with the written permission of the Commissioners, no covered drain shall be constructed, and no open drain shall be covered in.

Sectional area.

4. The sectional area of every drain shall be subject to the approval of the Commissioners.

(*Schedule B.—Rules 5, 6. Schedule C.—Rule 1.*)

Discharge.

5. (*1*) Drains must discharge into the nearest water-channel or public drain, unless in any case the Commissioners otherwise direct.

(*2*) The outfall of a drain into a water-channel or public drain must be protected and guided in such manner as the Commissioners may direct.

(*3*) Where the drain of a private road joins the drain of a public road, the former drain must be so directed or so protected by strike-boards as to minimise the risk of damage to the public drain or road.

Drain round masonry or framed building.

6. A masonry drain must be placed round every masonry or framed building or block of such buildings, and the site must be sloped from all sides towards such drain.

SCHEDULE C.

RULES AS TO THE USE OF BUILDING-SITES AND THE EXECUTION OF BUILDING-WORK.

[*See sections 238, 239, 240, 243, 244B, 244C, 244J, 244L, 244O, 272E and 351B.*]

Part I.—Definitions.

Definitions.

1. In this Schedule, unless there is anything repugnant in the subject or context,—

(*a*) the word "base," as applied to a wall, means the under side of the course immediately above the footings of the wall;

(*b*) "nogging" means lime or cement concrete, or brickwork in lime or cement mortar, which is filled in between the frames of iron or wood in a framed building;

(*c*) "party-wall" means a wall forming part of a building and used or constructed to be used for the support

(*Schedule C.—Rules 1, 2.*)

and separation of adjoining buildings belonging to different owners or constructed or adapted to be occupied by different persons; and

(*d*) "topmost storey" means the uppermost storey in a building, whether constructed wholly or partly in the roof or not, and whether constructed, used or adapted to be used for human habitation or not.

Part II.—Building-sites.

Certificate by Engineer as to site.

2. (*1*) When any application is made for approval of a site for the erection, re-erection or material alteration of a masonry or framed building, or when any application for permission to erect, re-erect or materially alter a hut involves the approval of a site, the Commissioners shall refer the application to the Municipal Engineer, who shall certify—

(*a*) whether, in his opinion, the site is reasonably secure from danger from hillside slips either from above or from below, or could be made secure as aforesaid by the addition of protective works, and

(*b*) whether, in his opinion, if the site be built upon as proposed, the stability or security of any hillside or bank or any immoveable property thereon would be threatened by the building, or could be ensured by the addition of protective works.

(*2*) If the said Engineer certifies that the site is not secure as aforesaid, or that the stability or security of any hillside, bank or property would be threatened by the proposed building, or that the addition of protective works is necessary,

and if the Commissioners consider that the site ought nevertheless to be approved or that the said protective works need not be added,

the Commissioners shall refer the matter to the Engineer appointed under section 351D, and shall deal with the application in accordance with his decision.

(*Schedule C.—Rules 2-8.*)

(*3*) If protective works have to be added as aforesaid to any site, the site shall not be approved until such works have been constructed and have received the written approval of the Commissioners.

Part III.—Buildings generally.

Architecture.

3. Every building erected or re-erected, and every material alteration made to a building, must have such architectural features as to prevent the building being, in the opinion of the Commissioners, unsightly or unsuitable to its surroundings.

Buildings of more than three storeys.

4. (*1*) Except with the special sanction of the Commissioners, no building shall be erected or re-erected so as to have more than three storeys.

(*2*) When any such sanction is given, the materials and method of construction of the building must be such as may be prescribed by the Commissioners.

Level of floor.

5. The floor or lowest floor of every building erected or re-erected from the ground level must be constructed at such level as will admit of—

(*a*) the construction of a drain sufficient for the effectual drainage of the building and placed at such level as will admit of the drainage being led into some drain at the time existing or projected, and

(*b*) there being a ventilated air space of at least six inches in depth between the under side of the floor joists and the ground level.

Building over drain.

6. A building shall not be placed over any drain, except with the written permission of the Commissioners.

Part IV.—Masonry buildings and framed buildings generally.

Foundation.

7. The foundation of a masonry or framed building must rest on solid ground or rock.

Footings for walls.

8. (*1*) The projection of the bottom of the footings on each side of each wall of a masonry or framed building must be at least one-fourth of the thickness of the wall at its base.

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(*Schedule C.—Rules 8-10.*)

(*2*) The height from the bottom of such footings to the base of each wall must be at least two-thirds of the thickness of the wall at its base.

(*3*) Except where the foundation is a rock, the bottom of such footings shall not be less than three feet below the ground level.

(*4*) When a wall is built on rock, footings may be omitted if the surface of the rock is properly cleaned and stepped to receive the first course of masonry.

External and cross walls of a one-storeyed building.

9. The external and cross walls of a masonry or framed building of one storey must be built of—

(*a*) stone or brick bedded in lime or cement mortar,

(*b*) stone or brick bedded in mud mortar or,

(*c*) timber or iron framing filled in with nogging, or covered with corrugated or plain iron, or planked:

Provided that, when stone or brick bedded in mud mortar is used, those portions of the walls around doors and windows, and under the wall-plates for one foot in depth, and in the foundations up to plinth level, must be of stone or brick bedded in lime or cement mortar.

External and cross walls of a two-storeyed building.

10. (*1*) The external and cross walls of the lower storey of a masonry or framed building of two storeys must be built of—

(*a*) stone or brick bedded in lime or cement mortar, or

(*b*) timber or iron framing filled in with nogging or covered with corrugated or plain iron:

Provided as follows:—

(*i*) if any of the said external walls do not support any masonry wall in the upper storey, they may be built of nogging instead of as prescribed in clause (*a*); and

(*ii*) if any of the said cross walls are intended for partitions only, and do not support any wall in the upper storey, they may be built of nogging or of timber framing planked with boards.

(Schedule C.—Rules 10-12.)

(*2*) The external and cross walls of the upper storey of a masonry or framed building of two storeys must be built of the materials specified in clause (*a*) or clause (*c*) of rule 9.

External and cross walls of a three-storeyed building.

11. (*1*) The external and cross walls of the lowest storey of a masonry or framed building of three storeys must be built of—

(*a*) stone bedded in lime or cement mortar, or

(*b*) iron framing covered with corrugated iron or filled in with nogging;

and the external and cross walls of the storey next above the lowest storey of such a building must be built of—

(*i*) stone or brick bedded in lime or cement mortar, or

(*ii*) timber or iron framing filled in with nogging or covered with corrugated iron:

Provided that if any of the cross walls in either of the said storeys are intended for partitions only, and do not support any wall in the storey above, they may be built of planked timber framing.

(*2*) The external and cross walls of the topmost storey of a masonry or framed building of three storeys must be built of—

(i) stone or brick bedded in lime or cement mortar, or

(ii) timber or iron framing, filled in with nogging, or covered with corrugated or plain iron, or planked.

12. The party walls of a masonry or framed building must be built of stone or brick bedded in lime or cement mortar for their full height; and, if the Commissioners so direct, must be carried up, of a thickness of not less than nine inches, above the roof, flat or gutter to such a height as will give a distance of at least eighteen inches measured at right angles to the slope of the roof above the highest part of the roof, flat or gutter.

Party-walls.

13. (*1*) Every wall of a masonry or framed building must have a damp-proof course at or above the level of the ground floor.

Damp-proof course.

(*Schedule C.—Rules 13-18.*)

(*2*) Such damp-proof course may consist of sheet lead, asphalt, slates laid in cement, vitrified bricks or any durable material impervious to moisture.

Roofs.

14. (*1*) The roof of every masonry or framed building must be constructed of corrugated or plain iron, lead, slates or tiles:

Provided that, with the written permission of the Commissioners, any such roof may be constructed of shingles securely attached to a frame of iron or timber.

(*2*) The rise of the roof shall not in any case be less than one-eighth of the span.

Floors.

15. The floors of every masonry or framed building must be constructed to bear safely the maximum load to be carried, such load being taken, in the case of planked floors, as not less than sixty pounds *per* square foot, including the weight of the floor.

Beams and girders.

16. (*1*) All beams and girders in a masonry or framed building must be supported by a breadth of brick-work, stone or other solid substance sufficient to secure their stability.

(*2*) The bearing of a beam or girder on a wall shall not, without the sanction of the Commissioners, be less than three-fourths of the thickness of the wall.

Iron work.

17. All iron posts, girders or joists or other iron work used for the support of any portion of a masonry or framed building must be of such quality and strength as are approved by the Commissioners.

Part V.—Dwelling-houses.

Free passage about dwelling-houses.

18. (*1*) Except with the written permission of the Commissioners, no dwelling-house or part thereof shall be erected, re-erected or extended so that any external wall thereof is in any direction at a distance less than—

(*a*) twenty feet from any part of any adjacent building, or

(*b*) ten feet from the boundary of the holding on which the house stands, or

(*Schedule C.—Rules 18-21.*)

(*c*) four feet from the side of any public road, or

(*d*) three feet from the toe of any bank or retaining-wall.

(*2*) The said permission shall not be granted unless the Commissioners are satisfied that notice of the intention to apply for it has been given to the neighbouring proprietor or his agent, and shall not be refused except on sanitary or other public grounds.

(*3*) If the said permission be granted, the Commissioners shall send a copy thereof both to the applicant and to the said neighbouring proprietor.

Out-houses.

19. Every person who erects or re-erects out-houses, or ranges or blocks of out-houses, whether the same are to be used as dwellings or stables or for any other purpose in connection with a dwelling-house, must build the same—

(*a*) so that they may stand in regular lines, with a free passage or way, in front of and between every two lines, of such width as the Commissioners may direct, for ventilation and for facilitating scavenging; and

(*b*) with such and so many privies, latrines or urinals, and such means of drainage, as the Commissioners may require; and

(*c*) at such level as will suffice for the means of drainage required by the Commissioners.

Ventilation of rooms of dwelling-house.

20. Every room in a dwelling-house—

(*a*) must be so constructed that the whole of at least one side of the room either is an external wall or abuts on a verandah, or

(*b*) must have suitable and sufficient sky-lights and roof ventilation.

Size and ventilation of inhabited rooms.

21. Every room in a dwelling-house which is intended to be used as an inhabited room—

(*a*) must be in every part not less than eight feet in height from floor to ceiling, or, in the case of a room in

(*Schedule C.—Rules 21, 22.*)

the roof, must have an average height of not less than seven feet from floor to ceiling;

(*b*) must have a clear superficial area of not less than eighty square feet; and

(*c*) must be ventilated by means of doors or windows which open directly into a verandah or the external air, and which have an aggregate opening, clear of the framing, equal to not less than one-tenth of the superficial area of the floor of the room.

Part VI.—Applications for approval of sites for, and for permission to erect, re-erect or materially alter, masonry buildings or framed buildings.

Application for approval of site for erection, re-erection or material alteration of a masonry or framed building.

22. (*1*) Every application for approval of a site for the erection or re-erection of a masonry or framed building must be written on a printed form (to be supplied by the Commissioners free of charge), and must state the position of the site, the number assigned to it in the valuation and rating list, its dimensions, and such other particulars as may be prescribed by the Commissioners.

(*2*) The site-plan sent with such an application must be drawn to a scale of not less than one-fiftieth of an inch to a foot, must be sent in duplicate, and must show—

(*a*) the boundaries of the site;

(*b*) the position of the site in relation to neighbouring roads, hillsides and banks;

(*c*) the angle and the character of the hill-sides or banks occupied by and abutting on the site;

(*d*) whether the site is wooded or not;

(*e*) what springs and *jhoras* (if any) there are on the site;

(*f*) what excavations (if any) it is proposed to make on or near the site;

(*g*) what protective works (if any) it is proposed to construct on, or for the support of, the site;

(*Schedule C.—Rules 22, 23.*)

(*h*) the name of the road (if any) in which the building is proposed to be situated;

(*j*) the position of the building in relation to—

(i) the boundaries of the site, and

(ii) all adjacent roads, buildings and premises within a distance of forty feet of the site, or

(iii) (if there is no road within a distance of forty feet of the site) some existing or projected road;

(*k*) the means of access to the building from the road;

(*l*) the position, form and dimensions of privies, urinals, drains, stables, cattle-sheds, cow-houses and other appurtenances of the building, and the inclination of such drains;

(*m*) free passage or way in front of the building;

(*n*) space to be left about the building to secure a free circulation of air, admission of light, and access for scavenging purposes;

(*o*) the width and level of the road (if any) in front and of the road (if any) at the rear of the building; and

(*p*) such other particulars as may be prescribed by the Commissioners.

(*3*) The foregoing sub-rules shall apply also in the case of applications for permission to materially alter a masonry or framed building in the manner indicated in clause (*b*) of section 238, in so far as the said sub-rules are capable of application to the intended alteration.

Application to be sent and particulars furnished by person intending to erect, re-erect or materially alter a masonry or framed building.

23. (*1*) Every application for permission to erect or re-erect a masonry or framed building must be written on a printed form (to be supplied by the Commissioners free of charge), and must state the description of the building, its dimensions, and such other particulars as may be prescribed by the Commissioners.

(*Schedule C.—Rule 23.*)

(*2*) The plan of the building and the elevations and sections accompanying such an application must be neatly and accurately drawn to a scale of not less than one-eighth of an inch to a foot, must be fully dimensioned, and must be sent in duplicate, and the said plan must show—

(*a*) the levels and width of the foundation of the building;

(*b*) the level of the lowest floor of the building; and

(*c*) the level of all open spaces in the building or premises, and the plinth level of buildings with reference to the level at the centre of the nearest road.

(*3*) The specification accompanying such an application must comprise full information as to the following particulars, namely:—

(i) the materials and method of construction to be used for external walls, party walls, foundations, roofs, floors, fire-places and chimneys;

(ii) the manner in which roof and house drainage and the surface drainage of land will be disposed of;

(iii) the manner, if any, in which it is proposed to pave the open spaces in the building or premises, and the slope to which the surface is to be made in each case;

(iv) the purpose for which it is intended to use the building;

(v) if the building is intended to be used as a dwelling-house for two or more families, or as a place for carrying on any trade or business in which more than twenty people may be employed, or as a place of public resort, the means of ingress and egress; and

(vi) such other particulars as may be prescribed by the Commissioners.

Explanation to clause (iv).—If it is intended to use the building or any part thereof for any of the purposes specified in

(Schedule C.—Rules 23-26.)

section 261, or as a stable, cattle-shed or cow-house, the fact must be expressly stated.

(*4*) The foregoing sub-rules shall apply also in the case of applications for permission to materially alter a masonry or framed building, in so far as they are capable of application to the intended alteration.

Signature of plans, elevations and sections.

24. (*1*) The plans, elevations and sections referred to in section 240 must be signed clearly and in a prominent place by the owner of the building.

(*2*) If the said documents have been prepared by an Architect or an Engineer, they may be signed by him as well as by the owner.

Power to require further information.

25. (*1*) Within thirty days after the receipt of any application under section 238 or section 240, the Commissioners may require the applicant to furnish them with any information which has not already been given in the documents received.

(*2*) If any information required under sub-rule (*1*) is, in the opinion of the Commissioners, incomplete or defective, they may, within thirty days after the receipt of the same, require further information to be furnished.

(*3*) If any requisition made under sub-rule (*1*) or sub-rule (*2*) is not complied with within three months, the application received under section 238 or section 240, as the case may be, shall be deemed not to have been made.

Modification, signature and disposal of plans.

26. (*1*) When the Commissioners have approved any site-plan or given permission to execute any work, any modifications which they may have directed to be made in such site-plan or in any of the approved plans of the work shall be entered on both copies of the plan, and the copies shall be signed on behalf of the Commissioners.

(*2*) One of the signed copies of each plan shall then be returned to the applicant, and the other shall be kept in the office of the Commissioners.

(Schedule C.—Rules 27-29. Schedule D.—Rule 1.)

Part VII.—Huts.

27. Every hut abutting on a road or passage, whether public or private, must be constructed so as not to project over, or admit of water from the roof falling upon or injuring, the road or passage.

Prohibition of projections or dropping of water over road or passage.

Part VIII.—Applications for permission to erect, re-erect or materially alter huts.

28. (*1*) Every application for permission to erect, re-erect or materially alter a hut must be written on a printed form (to be supplied by the Commissioners free of charge) and must contain a description of the site.

Application for permission to erect, re-erect or materially alter a hut.

(*2*) If it is intended to use the hut or any part thereof for any of the purposes specified in section 261, or as a stable, cattle-shed or cow-house, the fact must be expressly stated in the said application.

29. (*1*) When any application under section 244J has been received, the Commissioners may require the applicant to furnish them with any additional information which they may consider it necessary to obtain.

Power to require further information.

(*2*) If any information required under sub-rule (*1*) is, in the opinion of the Commissioners, incomplete or defective, they may require further information to be furnished.

(*3*) If any requisition made under sub-rule (*1*) or sub-rule (*2*) is not complied with within two months, the application received under section 244J shall be deemed not to have been made.

SCHEDULE D.

RULES AS TO REVETMENTS, RETAINING-WALLS, TOE-WALLS, TURFING AND SLOPING.

(See sections 248E and 351B and Schedule A, rule 3.)

Part I.—Revetments, retaining-walls and toe-walls.

1. (*1*) The foundation of every revetment, retaining-wall or toe-wall must be taken down to original and firm soil or rock; and the bed-line must be cut at right-angles with the face of the revetment or wall.

Foundation and bed-line.

(*Schedule D.—Rules 1-7.*)

(*2*) The building of any revetment, retaining-wall or toe-wall shall not be commenced until the foundation and bed-line have been inspected and approved by the Commissioners.

Materials.

2. (*1*) A revetment, retaining-wall or toe-wall may be made of dry rubble masonry, but must, in any case in which the Commissioners so direct, be made of lime masonry.

(*2*) No stone used shall be of greater height than its length or breadth.

Laying of stones.

3. All stones used must be laid on their natural beds, and must be arranged so as to break joint as far as may be possible.

Bonding.

4. (*1*) One through bonding-stone or line of bonding-stones must be inserted at intervals of five feet in each course, and at points intermediate between the corresponding bonding-stones of the course below.

(*2*) Any of the bonding-stones which do not extend right through the wall must overlap each other for one-third of their length.

Solidity.

5. Every revetment, retaining-wall or toe-wall must be built up solid to full section; and spawls or chips shall not be used for filling the courses unless their use is unavoidable.

Weep-holes.

6. Weep-holes must be provided at intervals of four feet horizontally and four feet vertically, beginning with the course immediately above ground-level.

Sections.

7. (*1*) Where a revetment, retaining-wall or toe-wall does not exceed twenty feet in height and is not surcharged, the mean thickness of the revetment or wall above the footings shall not be less than one-third of the vertical height of the revetment or wall, measured from the top of the footings:

Provided that the width at the top shall in no case be less than one foot six inches and need not in any case exceed three feet six inches.

(*2*) Where a revetment, retaining-wall or toe-wall does not exceed twenty feet in height and is surcharged, sub-rule (*1*)

(*Schedule D.—Rules 7, 8. Schedule E.*)

shall apply, the height being assumed, for the purposes of that sub-rule, to be one-and-a-half times the vertical height.

(*3*) Where a revetment or retaining-wall exceeds twenty feet in height, detailed designs must be submitted to the Commissioners, and the sections must be such as the Commissioners may approve.

Part II.—Sloping.

8. When, in pursuance of any requisition or direction made or given by the Commissioners, any slope is to be reduced, the angle to which the slope is reduced shall not be greater than 37°.

Angle.

SCHEDULE E.

REPEAL OF CERTAIN PORTIONS OF THE BENGAL MUNICIPAL ACT, 1884.

(*See section 23.*)

1	2
Portions of the Bengal Municipal Act, 1884.	Extent of repeal.
Sections 208, 232 and 267, and section 270, clauses (*4*) and (*5*).	The whole.
Section 218	The figures and word "207 or 208."
Sections 224 and 229, and section 272, clause (*2*).	So much as relates to drains.
Section 271	The figures "227" and "238."
Section 273, clause (*1*) ...	The figures and words "238 or 241, or lets a house for occupation contrary to the provisions of section 242."

SCHEDULE F.

TEMPORARY AMENDMENT OF CERTAIN PORTIONS OF THE BENGAL MUNICIPAL ACT, 1884.

(*See section 27.*)

1	2
Portions of the Bengal Municipal Act, 1884.	Amendments.
Section 30	So far as this section relates to roads, bridges, channels and drains, *for* "the Commissioners" *read* the "Local Government," and *omit* the proviso.
Section 31	So far as this section relates to roads, bridges, channels and drains, *for* "The Commissioners at a meeting" *and for* the words "the Commissioners," wherever they occur, *read* "the Local Government," *and for* "Municipal Fund" *read* "public funds."
Section 34	*After* "The Commissioners at a meeting" *insert* "or the Local Government, as the case may be."
Sections 37, 219 and 271 ...	*After* "the Commissioners" *insert* "or the Local Government."
Section 69	The duties and powers conferred and imposed on the Commissioners in respect of the construction, maintenance, repair and improvement of roads, bridges, channels and drains shall be performed and may be exercised, respectively, by the Local Government, at the cost of the public funds.

(*Schedule F.*)

1	2
Portions of the Bengal Municipal Act, 1884.	Amendments.
Sections 120 to 129 ...	For the purpose of the recovery, in pursuance of section 360, of moneys due to the Local Government,— (*a*) *after* the word "Commissioners," wherever it occurs, *insert* "or the Local Government, as the case may be", and (*b*) *after* "Municipal Funds," in section 124, *insert* "or the public funds, as the case may be."
Sections 183, 211, 212, 351, 353 and 361 (paragraph 1).	*After* "the Commissioners," wherever those words occur, *insert* "or the Local Government, as the case may be."
Sections 190, 191, 197 and 198	So far as these sections confer power to take action in respect of drains, streams, channels, watercourses and springs for other than sanitary purposes, *for* "the Commissioners" *read* "the Local Government."
Sections 201, 202 to 206, 209, 210, 218, 226, 230 (so far as it relates to drains), 233 to 235 and 269, and section 272, clause (*l*).	*For* the words "the Commissioners" and the words "the Commissioners at a meeting," wherever they occur, *read* "the Local Government."
Section 203	*For* "Municipal Fund" *read* "public funds."
Section 212, paragraph 2 ...	*After* "the Municipal Funds" *insert* "or the public funds, as the case may be."

(*Schedule F.*)

1	2
Portions of the Bengal Municipal Act, 1884.	Amendments.
Sections 244E and 244Q, and Schedule C, rule 2.	*For* "the Municipal Engineer" *read* "a Government Engineer."
Section 350	So far as this section relates to— (*a*) preventing obstructions and encroachments on roads, (*b*) regulating the use of streams and channels, and (*c*) regulating the management of drains, *for* the words from "The Commissioners" to "given" *read* "The Local Government may."
Section 350A, sub-section (*1*)	*For* the words from "The Commissioners" to "given" *read* "The Local Government."
Section 350A, sub-section (*2*)	*For* "the Commissioners at a meeting as aforesaid" *read* "the Local Government."
Section 352	*Before* "may order proceedings" *insert* "the Commissioners or the Local Government, as the case may be." *After* "the Municipal Fund" *insert* "or out of the public funds, as the case may be."
Section 354	*After* "deposited in the office of the Commissioners" *insert* "or of the authority issuing the same."

(*Schedule F.*)

1	2
Portions of the Bengal Municipal Act, 1884.	Amendments.
Section 354	*After* "as the Commissioners" *insert* "or the said authority, as the case may be." *For* "inspection in the office of the Commissioners" *read* "inspection in the said office."
Section 360	*After* "the Commissioners of any Municipality" *insert* "or the Local Government."
Section 361, paragraph 2 ...	*After* "the Commissioners" *insert* "or the Local Government." *After* "the Municipal Fund" insert "or the public funds, as the case may be." *After* "such Commissioners" *insert* "or the Local Government, as the case may be."
Section 363	*After* "any municipality," "the said Commissioners" and "If the Commissioners," respectively, *insert* "or the Local Government." *After* "such Commissioners" *insert* "or of the Local Government, as the case may be."
Section 365, paragraph 1 ...	*For* "of the municipality" *read* "or the Local Government, as the case may be."

(*Schedules F and G.*)

1	2
Portions of the Bengal Municipal Act, 1884.	Amendments.
Section 365, paragraph 3 ...	*Before* "any servant" *insert* "or of any officer appointed in this behalf by the Local Government." *Before* "in receipt" *insert* "or the Local Government, as the case may be."

SCHEDULE G.

PORTIONS OF THE BENGAL MUNICIPAL ACT, 1884, THE POWERS OR DUTIES CONFERRED OR IMPOSED BY WHICH ON THE LOCAL GOVERNMENT MAY NOT BE DELEGATED.

(*See section 28.*)

Section 6, clauses (*14A*) and (*19*), sections 7 to 29A, 32, 35, 37C to 68, 69A to 111A, 147A to 174, 220, 221, 223, 224A, 244Z, sub-section (*2*), 252 and 276, Parts VII, VIII and XI, and sections 350, 350A, 350B, 351, 351A, 351B and 351D.

J. B. K. and others—Reg. No. 890G—2,000—22-3-1900.

Bengal Act No. II of 1900.

Passed by the Lieutenant-Governor of Bengal in Council.

(Received the assent of the Lieutenant-Governor on the 31st March 1900, and of the Governor-General on the 15th April, 1900.)

[First published in the Calcutta Gazette of the 18th April 1900.]

An Act to continue and validate the appointments of certain functionaries of the Corporation of Calcutta.

Whereas doubts have been raised as to whether certain appointments made under prior Acts are continued by the Calcutta Municipal Act, 1899, and as to whether the appointments referred to in sub-section (*3*) of section 8 of that Act can lawfully be made before rules have been made as required by that sub-section;

Ben. III of 1899.

And whereas it is expedient to remove such doubts;

It is hereby enacted as follows:—

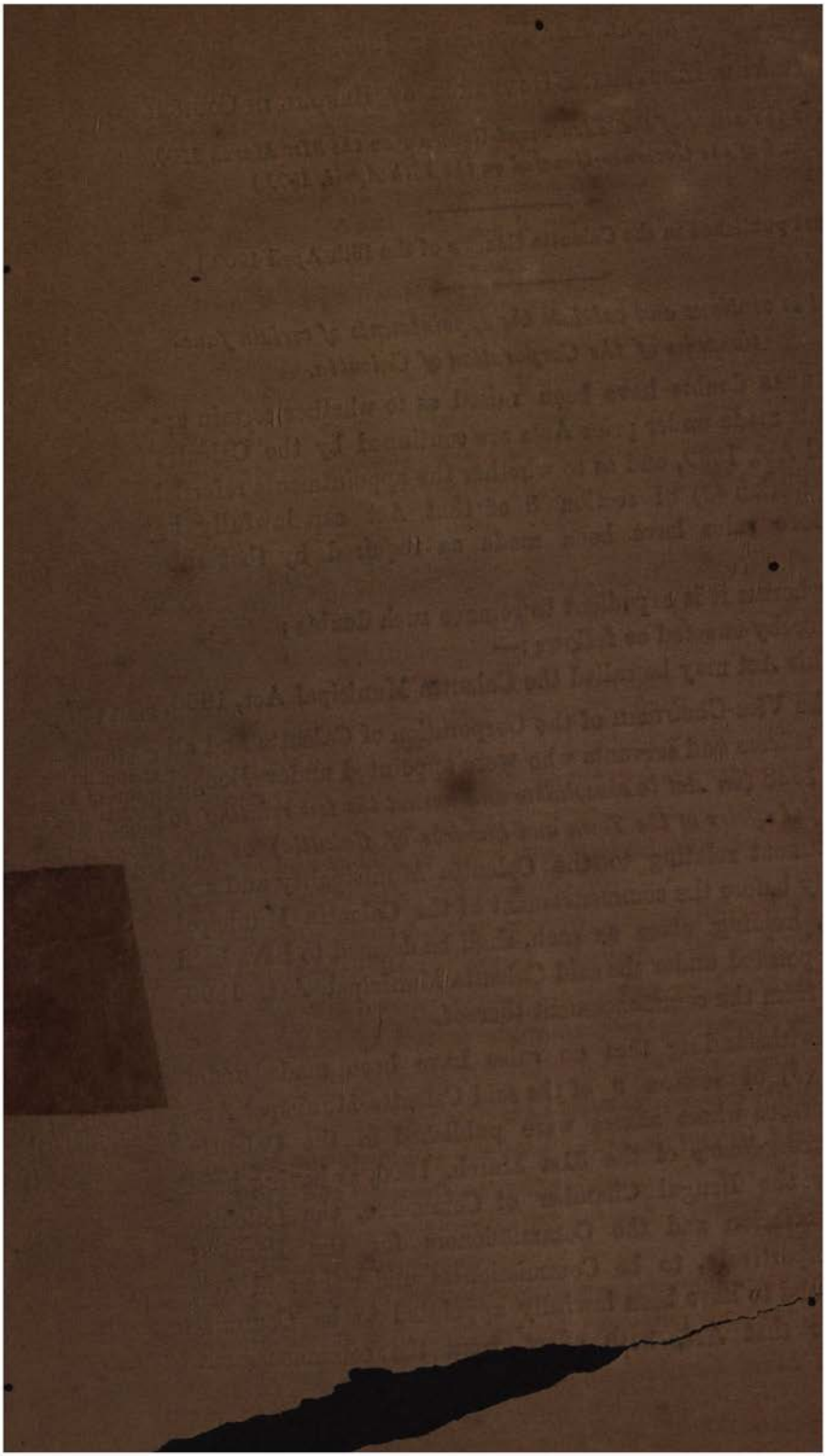
1. This Act may be called the Calcutta Municipal Act, 1900. Short title.

2. The Vice-Chairman of the Corporation of Calcutta and all municipal officers and servants who were appointed under Bengal Act II of 1888 (*an Act to consolidate and amend the law relating to the Municipal affairs of the Town and Suburbs of Calcutta*) or any prior enactment relating to the Calcutta Municipality and are, immediately before the commencement of the Calcutta Municipal Act, 1899, holding office as such, shall be deemed to have been lawfully appointed under the said Calcutta Municipal Act, 1899, with effect from the commencement thereof. Continuance of appointments of Vice-Chairman and municipal officers and servants.

3. Notwithstanding that no rules have been made under sub-section (*3*) of section 8 of the said Calcutta Municipal Act, 1899, the persons whose names were published in the Calcutta Gazette *Extraordinary* of the 31st March, 1900, as having been appointed by the Bengal Chamber of Commerce, the Calcutta Trades' Association and the Commissioners for the Port of Calcutta, respectively, to be Commissioners under the said Act, shall be deemed to have been lawfully appointed to be Commissioners under that Act, with effect from the commencement thereof. Validation of certain appointments of Commissioners.

[*Price—Indian, six pies; English,* ½ *d.*]

W. L. W.—Reg. No. 58G—2,000—27-4-1900.



BENGAL ACT No. III OF 1900.

PASSED BY THE LIEUTENANT-GOVERNOR OF BENGAL IN COUNCIL.

(Received the assent of the Lieutenant-Governor on the 3rd April, 1900, and of the Governor General on the 27th April, 1900.)

[First published in the Calcutta Gazette of the 9th May, 1900.]

Act to amend Bengal Act I of 1869 (an Act for the prevention of cruelty to animals).

WHEREAS it is expedient to amend Bengal Act I of 1869 (*an Act for the prevention of cruelty to animals*);

It is hereby enacted as follows:—

Amendment of section 1 of Bengal Act I of 1869.

1. For section 1 of Bengal Act I of 1869 (*an Act for the prevention of cruelty to animals*) the following shall be substituted, namely:—

Definition of 'animal.'

"1. In this Act the word 'animal' means any domestic or captured animal."

Amendment of section 5 of Bengal Act I of 1869.

2. For section 5 of the said Act the following shall be substituted, namely:—

Penalty for employing animal unfit for labour.

"5. If any person employs in any work or labour any animal which by reason of any disease, infirmity, wound, sore or other cause is unfit to be so employed, or permits any such unfit animal in his possession or under his control to be so employed, he shall be punished with fine which may extend to one hundred rupees.

Penalty for practising phúká.

"5A. If any person performs upon any cow the operation called phúká, he shall be punished with fine which may extend to one hundred rupees, or with imprisonment which may extend to three months, or with both.

Infirmaries.

"5B. (*1*) The Local Government may, by general or special order, appoint places to be infirmaries for the treatment and care of animals in respect of which offences against this Act have been committed.

[*Price—Indian, six pies; English,* ½*d.*]

(*2*) The Magistrate before whom a prosecution for such an offence has been instituted may direct that the animal in respect of which the offence is proved to have been committed shall be sent for treatment and care to an infirmary and be there detained until it is, in his opinion, again fit for work or labour on which it has been ordinarily employed.

(*3*) The cost of the treatment, feeding and watering of the animal in the infirmary shall be payable by the owner of the animal according to such rates as the District Magistrate or, in the case of an infirmary in a Presidency town, the Commissioner of Police may from time to time prescribe.

(*4*) If the owner refuses or neglects to pay such cost and to remove the animal within such time as the Magistrate referred to in sub-section (*3*) may prescribe, such Magistrate may direct that the animal be sold and that the proceeds of the sale be applied to the payment of such cost.

(*5*) The surplus, if any, of the proceeds of the sale shall, on application made by the owner within two months after the date of the sale, be paid to him, but the owner shall not be liable to make any payment in excess of the proceeds of the sale.

"5C. A prosecution for an offence against this Act shall not be instituted after the expiration of three months from the date of the commission of the offence.

Limitation of prosecutions.

Short title. 3. (*1*) This Act may be called the Bengal Cruelty to Animals Act, 1900.

(*2*) This Act, the aforesaid Bengal Act I of 1869, and Bengal Act III of 1869 (*an Act to enable Police officers to arrest without warrant persons guilty of cruelty to animals*) may be cited together as the Bengal Cruelty to Animals Acts, 1869 to 1900.

T. N. R.—Reg. No. 96G—2,000—25-5-1900.

Bengal Act No. IV of 1900.

Passed by the Lieutenant-Governor of Bengal in Council.

(Received the assent of the Lieutenant-Governor on the 28th July, 1900, and of the Governor General on the 14th August, 1900.)

[First published in the Calcutta Gazette of the 22nd August, 1900.]

An Act to give effect to an agreement made on the 9th December, 1899, between the Corporation of Calcutta and the Calcutta Tramways Company, Limited.

Whereas an agreement, a copy whereof is set forth in the Schedule to this Act, was made between the Corporation of Calcutta and the Calcutta Tramways Company, Limited, on the 9th December, 1899;

And whereas it is declared in the said agreement that the same shall be subject to sanction and authorisation by an Act of the Bengal Legislative Council to be thereafter passed for the purpose;

And whereas it is expedient that such sanction and authorisation should be given;

It is hereby enacted as follows:—

Short title.

1. This Act may be called the Calcutta Tramways (Electric Traction) Act, 1900.

Sanction to the agreement.

2. The agreement, a copy whereof is set forth in the Schedule to this Act, is hereby sanctioned and authorised, and the concessions or contracts, dated respectively the 2nd October, 1879, and the 22nd November, 1879, and the agreement of the 2nd September, 1893, in such agreement mentioned, and the Calcutta Tramways Act, 1880, and the Calcutta Tramways Act, 1894, shall, so far as may be necessary to validate and give effect to such agreement, be extended, varied or modified.

[*Price—Indian, two annas; English, 2d.*]

THE SCHEDULE.

Agreement, dated 9th December, 1899, between the Corporation of Calcutta and the Calcutta Tramways Company, Limited.

ARTICLES of Agreement made this ninth day of December, 1899, BETWEEN THE CORPORATION OF CALCUTTA constituted by and under the Calcutta Municipal Consolidation Act, 1888, of the Bengal Legislative Council, hereinafter called the Corporation of the one part, and THE CALCUTTA TRAMWAYS COMPANY, LIMITED, a Company incorporated under the English Companies' Acts, having its registered office at 11, Abchurch Lane, London, hereinafter called the Company, of the other part. WHEREAS, by two Concessions or Contracts the first thereof being dated the 2nd October, 1879, and made between the Corporation of the Town of Calcutta constituted by and under Act IV of 1876 of the Bengal Legislative Council of the one part and Dillwyn Parrish, Alfred Parrish and Robinson Souttar, in such Concession or Contract described and therein and hereinafter referred to as the grantees, of the other part, and the second Concession or Contract being dated the 22nd November, 1879, and made between the Chairman of the Municipal Commissioners of the Suburbs of Calcutta, a body created and rendered corporate by Act V of 1876 of the Bengal Legislative Council, of the one part, and the said Dillwyn Parrish, Alfred Parrish and Robinson Souttar as grantees, of the other part, which Concessions or Contracts respectively received the sanction of the Lieutenant-Governor of Bengal and were further sanctioned by an Act of the Bengal Legislative Council entitled the Calcutta Tramways Act, 1880, the grantees, their heirs, executors, administrators and assigns were authorised to construct, maintain and use, in the manner, upon the terms and subject to the conditions and provisions in the said Concessions or Contracts respectively expressed and contained, certain lines of tramway therein respectively referred to in Calcutta and the Suburbs thereof respectively, and were also entitled, subject to the conditions and provisions in the said Concessions or Contracts respectively expressed and contained, to the exclusive right of laying and constructing, maintaining and using a tramway or tramways

within the limits of the Calcutta Municipality and of laying, constructing, maintaining and using a tramway or tramways within the limits of the Calcutta Suburban Municipality. AND WHEREAS the Corporation are, under and by virtue of Act II of 1888 of the Bengal Legislative Council, the successors of the Corporation of the Town of Calcutta, parties of the first part to the said Concession or Contract of 2nd October, 1879, and of the Chairman of the Municipal Commissioners of the Suburbs of Calcutta, party of the first part to the said Concession or Contract of the 22nd November, 1879, and the Company are the assignees of the grantees, parties of the second part to the said Concessions or Contracts of the 2nd October, 1879, and 22nd November, 1879, respectively. AND WHEREAS, by the said Concession or Contract of the 2nd October, 1879, it was agreed that in consideration of such Concession the grantees would pay rent at the several rates therein specified for the several periods in the said Concession or Contract mentioned. AND WHEREAS it was by the said Concession or Contract of the 2nd October, 1879, further agreed and provided that the Corporation of the town of Calcutta and their successors should have the right of purchasing the said tramways, with the plant, buildings, stores, rolling-stock and everything connected therewith, upon the expiration of twenty-one years from the commencement of the said Concession or Contract, upon declaring their intention so to do in writing not less than six months before the expiration of the said twenty-one years, and should have a renewed right of purchase at the end of every seven years after the expiration of the said twenty-one years upon similar notice being given, and the consideration for such purchase should be a cash payment of one and two-fifths of the amount of the invested capital of the said grantees or securities of the Government of India or securities the interest whereon should be guaranteed by the Secretary of State for India in Council or debentures of the said Corporation of such amount as to produce, at the rate of interest current on such securities, 7 per cent. per annum on the amount of the said invested capital, and, if the consideration for such purchase should be given in such securities as aforesaid, the grantees should be entitled to have in addition a first mortgage of all the property, assets and profits of the tramway or tramways which should have been purchased

from them. AND WHEREAS, by an agreement bearing date the 2nd day of September, 1893, and made between the Corporation of the one part and the Company of the other part, such agreement being sanctioned by Act III of 1894 of the Bengal Legislative Council, after reciting *inter alia* that under and by virtue of the 17th Clause of the said Concession or Contract of the 2nd day of October, 1879, the rent then payable by the said Calcutta Tramways Company, Limited, to the said Corporation of Calcutta was calculated at the rate of Rs. 3,250 per annum per mile of double line and Rs. 2,250 per annum per mile of single line, it was in reference thereto agreed that the rent payable by the said Company to the Corporation from the 1st January, 1894, to the 31st December, 1900, being the end of the 21st year referred to in the said Concession or Contract of the 2nd October, 1879, should be calculated and paid at the said rate of Rs. 3,250 per annum per mile of double line and Rs. 2,250 per annum per mile of single line, anything in the said Concession or Contract of the 2nd October, 1879, to the contrary notwithstanding, and the said agreement contained a proviso, which has since become inoperative, that a remission of Rs. 15,000 a year should be granted for five years with effect from 1894 subject to the condition that the dividends declared by the Company should not exceed 3½ per cent. per annum during that period. AND WHEREAS the said Company some time since proposed to the Corporation to substitute electric traction for horse-power traction heretofore employed in the working of the tramways approved of by the Corporation and constructed and maintained by the Company, and to make such alterations in the construction of the said tramways as might be necessary to render the lines suitable to the adoption of such substituted traction, to which proposal the said Corporation assented. AND WHEREAS the said Company have, with the assent of the said Corporation, already effected the necessary alteration in the construction of portions of the said tramways. AND WHEREAS the parties hereto have deemed it expedient and have mutually agreed, subject to the sanction and authorisation of this agreement by an Act of the Bengal Legislative Council, that the said Concessions or Contracts of the 2nd October, 1879, and of the 22nd November, 1879, and the said agreement of

the 2nd September, 1893, shall be varied or modified to the extent and in the manner hereinafter appearing. NOW THESE PRESENTS WITNESS that, subject to the sanction and authorization thereof by an Act of the Bengal Legislative Council to be hereafter passed for the purpose, and in consideration of the said mutual agreement and of the covenants hereinafter contained and on the part of the said Corporation and of the said Company, respectively, to be observed and performed, the Corporation do hereby covenant with the Company and its assigns, and the Company for itself and its assigns doth hereby covenant with the Corporation, in manner following, that is to say:—

1. Preparatory to the introduction of the system of electric traction hereinafter mentioned, the Company will in a good and substantial manner alter and reconstruct the several tramways in Calcutta constructed and now maintained by the Company and specified in the Schedule hereto, and all other tramways in Calcutta now maintained by the Company other than the tramways specified in the said Schedule, by removing therefrom the rails of the pattern and weight hitherto laid and maintained by the Company in connection with and for the purposes of the system of horse-power traction at present employed in working the said tramways, and by substituting for such rails in the existing gauge rails of such pattern and weight as shall in the opinion of the Engineer to the Corporation be suitable for electric traction.

2. The Company will execute and completely finish the work of alteration and reconstruction of the said tramways, as to those specified in the Schedule hereto by the 31st December, 1899, and will execute and completely finish the work of alteration and reconstruction of the said tramways, other than those so specified in the said Schedule, with all reasonable and proper despatch.

3. The Company will, within the period of three years from the date of this agreement, introduce and provide throughout the whole of the tramways of the Company a system of electric traction by means of overhead wires and of a description approved and accepted by the Corporation, in substitution for the

existing system of horse-power traction, and will within the period aforesaid furnish and fully and efficiently equip the said tramways with all plant and machinery necessary for the purpose and render the said system of electric traction so to be substituted sufficient and complete in all details as a working system, and, having so introduced and provided the said system of electric traction and so furnished and fully and efficiently equipped the said tramways, will give notice in writing of the completion of the said system to the Corporation. The said system of electric traction shall be completed to the satisfaction in all respects of the Engineer to the Corporation, and, on the Engineer to the Corporation satisfying himself that the said system of electric traction is complete, efficient and in good working order and safe for public service, and that the tramways and tramcars are in proper condition, he shall grant a certificate to that effect to the said Company, and from the date of the said certificate the said Company shall work the said system of electric traction.

4. If the Company shall not within the said period of three years from the date of this agreement complete the said system of electric traction in all details to the satisfaction of the Engineer to the Corporation, the Company shall be liable to and shall for such failure pay to the Corporation a penalty or fine of Rs. 200 for each day or part of a day until the said system of electric traction shall be completed in all details to the satisfaction of the said Engineer. The said penalty or fine shall be paid by the Company on demand therefor being made by or on behalf of the Corporation, and in the event of non-payment thereof shall be recoverable in full from the Company. If the Engineer to the Corporation shall decide that any work or thing to be done or provided under this agreement is not to his satisfaction, and the Company shall take objection to such decision as being unreasonable, the question shall be referred to and settled by arbitration in the manner provided by the said Concession or Contract of the 2nd October, 1879.

5. The Corporation shall have the right of purchasing the said tramways, with the plant, machinery, land, buildings, rolling-stock, stores and everything connected therewith belonging to the

Company, on the 1st January, 1931, upon declaring their intention so to purchase the same in writing not less than six calendar months before the said date, and the Corporation shall have a renewed right of purchase at the end of every seven years after the said 1st January, 1931, upon similar notice being given. The consideration for such purchase shall be a cash payment of twenty-five times the difference between the average gross annual receipts and the working expenses of the Company, which said working expenses shall *inter alia* include track-rent and the proper up-keep and maintenance of the said tramways, plant, machinery, buildings, and rolling-stock, and any sum payable under clause 6. The average of the gross annual receipts and the working expenses for the purposes of such purchase shall be determined by taking the average of the seven years immediately preceding the date of such purchase. Upon the expiry of the said notice the Company shall make over to the Corporation the entire tramways, plant, machinery, land, buildings, rolling-stock, stores and everything connected therewith. If the payment by the Corporation of the consideration for such purchase shall be delayed beyond the period of thirty days from the date of the expiration of the notice so to be given, the Corporation will pay to the Company interest on the amount of such consideration or such part thereof as shall be unpaid at the rate of 5 per cent. per annum from the date of the expiration of such notice, until payment, but in no event shall the said consideration be allowed to remain unpaid for more than six months from the date on which the same shall become due and payable. The provisions of this clause shall be in lieu of and not in addition to any power of purchase now vested in the Corporation under the said Concessions or Contracts of the 2nd October, 1879, and the 22nd November, 1879, or either of them, or the Calcutta Tramways Act, 1880, or otherwise.

6. The Company will, prior to the date of the expiration of the notice to be given by the Corporation under and pursuant to the last preceding clause, well and sufficiently repair to the satisfaction of the Engineer to the Corporation such of the said tramways and of the said plant, machinery, buildings, rolling-stock

and other things or such portions thereof, respectively, as shall then be in need of repair, and will place or restore the same in or to a good and serviceable order and condition, and will so make over the same to the Corporation. If default shall be made by the Company in complying with the provisions of this clause, the Corporation shall for such default, and to the extent thereof, be entitled to a deduction from the consideration for the purchase of the said tramways, plant, machinery, land, buildings, rolling-stock, stores and premises of the Company as aforesaid, the fact whether such default has occurred and the amount of such deduction to be determined by arbitration in the manner provided in the said Concession or Contract of the 2nd October, 1879.

7. Until such date as the Company shall have completed the said system of electric traction in all respects to the satisfaction of the Engineer to the Corporation, the Company will pay to the Corporation track-rent at the rate at which the same is now paid or may be payable by the Company under the said Concessions or Contracts of the 2nd October, 1879, and the 22nd November, 1879, and the said agreement of the 2nd September, 1893. On and from the date on which the Company shall have completed the said system of electric traction in all respects to the satisfaction of the Engineer to the Corporation, and thereafter throughout the period which shall elapse until the tramways, plant, machinery, buildings, rolling-stock, stores and premises shall be purchased by the Corporation in exercise of the liberty accorded by clause 5, the Company will pay to the Corporation the fixed track-rent of Rs. 35,000 per annum in respect of all the now-existing tramways without exception, provided that, if the working by the Company of any now-existing tramway or any portion thereof shall with the previous sanction of the Corporation be hereafter discontinued, the Company shall be entitled to a proportionate reduction of the said fixed rent in respect of the tramway or portion thereof, the working whereof, shall be so discontinued.

8. As from the date on which the Company shall have completed the said system of electric traction, and throughout the

period which shall elapse between such date and the date of the purchase by the Corporation of the property of the Company in manner hereinbefore provided, the Company shall on all tramways the subject of this agreement provide and maintain such a full and proper daily service of tramcars running in both directions as shall in the opinion of the Chairman of the Corporation be sufficient for the requirements and convenience of the public.

9. If the Company shall in any respect fail to maintain a fit and proper daily service of tramcars to the satisfaction of the Chairman of the Corporation, or shall in any respect fail to maintain the tramways in good and efficient order or the tramcars in efficient condition to the satisfaction of the Engineer of the Corporation, the Chairman or the Engineer, as the case may be, shall give notice to the Company to make good any default by a date to be named in such notice, and should the Company take objection to such notice as being in any respect unreasonable, the matter in question shall be referred to arbitration in the manner provided in the said Concession or Contract of the 2nd October, 1879, and the arbitrators or their umpire shall by their or his award be empowered to direct the Company to do all works and things necessary to keep the tramways in good and efficient order or to maintain a fit and proper daily service of tramcars or to maintain the cars in efficient condition, as the case may be, and the Company shall forthwith comply with the direction in such award within such period as shall be named therein, and, from the date of the submission to such arbitration or the date that may be fixed by the Engineer, if his decision is accepted, the Company shall, until they shall have complied with such notice or direction, be liable to pay and on demand by the Corporation shall pay the full track-rent provided for in the said Concession or Contract of the 2nd October, 1879, and shall forfeit all right to or benefit of any modification of such rent during such period.

10. And it is expressly agreed and declared that, subject to the sanction and authorisation of this Agreement by an Act of the Bengal Legislative Council, the said Concessions or Contracts of the 2nd October, 1879, and the 22nd November, 1879, respectively, and the Calcutta Tramways Act, 1880, Act III (B.C.)

of 1894 and the Agreement of the 2nd September, 1893, shall be read and construed as extended and varied or modified by this agreement.

Schedule referred to in the foregoing Agreement.

Bow Bazar Street.	Wellington Street.
Lall Bazar.	Kidderpore line.
Strand Road.	Old Court House Street.
Dhurrumtollah Street.	Lower Chitpore Road.
Cornwallis Street.	Dalhousie Square, South.
College Street.	Hare Street Junctions.
Wellesley Street.	Chowringhee—all crossings.

Nimtollah Ghat Street—whole.

As witness the hands of the Chairman and two other Commissioners and the seal of the Corporation of Calcutta and the hand of John Richard Maples, the duly-constituted Attorney of the Calcutta Tramways Company, Limited, in the name and on behalf of the Company.

Given under the common seal of the Corporation of Calcutta and duly signed in the presence of

W. R. MACDONALD,
Secretary.

W. R. BRIGHT, C.S.,
Chairman.
SATIS CHANDRA GHOSH,
E. M. D. COHEN,
Municipal Commissioners.

Witnesses to the signature of John Richard Maples, the duly-constituted Attorney of the Calcutta Tramways Company, Limited, in the name and on behalf of the Company.

JOHN CAVE ORR,
Attorney-at-Law.
J. W. ORR,
Attorney-at-Law.
Calcutta.

Seal of the Corporation of Calcutta.

THE CALCUTTA TRAMWAYS CO., LD.
By their Attorney,
JNO. R. MAPLES.

T. A.—Reg. No. 345 G—1,500—11-9-1900.

A COLLECTION OF THE ACTS

PASSED BY THE

LIEUT.-GOVERNOR OF BENGAL IN COUNCIL

IN THE YEAR 1902.

Published by Authority.

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TITLES OF ACTS

PASSED BY THE

LIEUT.-GOVERNOR OF BENGAL IN COUNCIL

IN THE

YEAR 1902.

No. I.—An Act to extend the Calcutta Electric Lighting Act, 1895, to the Howrah Bridge.

„ II.—An Act to amend the Bengal Drainage Act, 1880.

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B. S. Press—581G—2,000—15-12-1902—C. W.

BENGAL ACT No. I OF 1902.

[Published in the Calcutta Gazette of the 14th May, 1902.]

An Act to extend the Calcutta Electric Lighting Act, 1895, to the Howrah Bridge.

WHEREAS it is expedient to extend the Calcutta Electric Lighting Act, 1895, to the Howrah Bridge; It is hereby enacted as follows:— Ben. Act IX of 1895.

1. This Act may be called the Howrah Bridge Electric Lighting Act, 1902.

2. For clause (*a*) of section 2 of the Calcutta Electric Lighting Act, 1895, the following shall be substituted, namely:—

"(*a*) 'Calcutta' has the same meaning as in clause (7) of section 3 of the Calcutta Municipal Act, 1899; and includes also the Howrah Bridge and the approaches thereto which are vested in the Commissioners for the Port of Calcutta by section 13 of the Howrah Bridge Act, 1871." Ben. Act III of 1899. Ben. Act IX of 1871.

[*Price—Indian, six pies; English,* ½*d.*]

...ress—137G - 500—27-5-1902—E. J. H.

BENGAL ACT No. II OF 1902.

[PUBLISHED IN THE CALCUTTA GAZETTE OF THE 1ST OCTOBER, 1902.]

An Act to amend the Bengal Drainage Act, 1880.

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RECOVERY OF SHARE OF PAYMENTS FROM CO-SHARERS.

41A. Power to recover share of payments from co-sharers.

9. Insertion of new sections, 44A and 44B.

44A. Recovery, under the certificate procedure, of payments made in respect of land held by tenants.

Price—Indian, two annas; English, two pence.

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BENGAL ACT No. II OF 1902.

[PUBLISHED IN THE CALCUTTA GAZETTE OF THE 1ST OCTOBER, 1902.]

An Act to amend the Bengal Drainage Act, 1880.

WHEREAS it is expedient to amend the Bengal Drainage Act 1880, in the manner hereinafter appearing; Ben. VI of 1880.

It is hereby enacted as follows:—

Short title.

1. This Act may be called the Bengal Drainage (Amendment) Act, 1902.

PART I.—*Amendment of the Bengal Drainage Act, 1880.*

Amendment of section 3, Bengal Act VI of 1880.

2. In section 3 of the Bengal Drainage Act, 1880, after the definition of "Collector" the following shall be inserted, namely:—

"Certificate Officer" means a Certificate Officer as defined in clause (2) of section 4 of the Public Demands Recovery Act, 1895. Ben. I of 1895.

Amendment of section 26, and insertion of new section, 26A.

3. For section 26 of the said Bengal Drainage Act, 1880, the following shall be substituted, namely:— Ben. VI of 1880.

"26. Interest shall be charged on all such advances until the same have been recovered.

Interest to be charged on such advances.

"26A. (*1*) In every case in which the charging of interest is authorised by this Act, the rate chargeable shall be four *per centum per annum*.

Rate of interest, and barring of compound interest.

(*2*) No compound interest shall be charged in any case.

EXPLANATION.—The interest recoverable from a tenant under section 42, clause (*b*), section 43, clause (*b*), section 44 or section 44A shall not be deemed to be 'compound interest' within the meaning of this section, although it includes simple interest upon interest which has been paid by a landholder or superior tenant in pursuance of this Act."

Amendment of section 28.

4. In section 28, sub-section (*2*), of the said Act, for the words and figures "the interest mentioned in section 26" the word "interest" shall be substituted.

(PART I.—*Amendment of the Bengal Drainage Act, 1880.*—*Secs. 5, 6.*)

Repeal of section 29 and portions of sections 30, 31, 38 and 42 to 44.

5. The following portions of the said Act are hereby repealed, namely:—

section 29,

in section 30, the figures and word "26 or,"

in section 31, the words "upon such sums at five *per centum per annum,*" and the words and figures "and any interest payable under section 29, and any interest payable under clause (*1*) of section 26, but not paid or recovered before the apportionment under section 28,"

in section 38, the words "thereupon at five *per centum per annum,*"

in clause (*b*) of section 42, and in clause (*b*) of section 43, the words "at the rate of five *per centum per annum,*" and

in sub section (*3*) of section 44, the words "at five *per centum per annum.*"

Insertion of new section, 36A.

6. After section 36 of the said Act the following shall be inserted, namely:—

"36A. (*1*) If any order passed under section 36, so far as it declares what persons are liable to pay any sum under this Act in respect of any land, appears at any time to require revision,—

Power to add to, or alter, declaration as to names of persons liable to pay.

(*a*) by reason of the omission of the name of any co-sharer of such land, or

(*b*) by reason of any change having taken place in the ownership or joint ownership of such land, or

(*c*) for any other substantial reason,

the Collector may, on the application of any holder of the land, or of his own motion, and after such inquiry and upon such conditions (if any) as he may think proper, add to or alter such order:

Provided that every person whose name is so added or who is materially affected by any such alteration has had an opportunity of being heard by the Collector.

(PART I.—*Amendment of the Bengal Drainage Act, 1880.*—*Sec. 7*).

(*2*) Any person who is dissatisfied with any addition or alteration made under sub-section (*1*) may, within one month after the same was made, appeal to the Commissioner of the Division.

(*3*) The Commissioner shall cause notice of the day fixed for the hearing of such appeal to be published in the manner prescribed by section 35; and shall, on the day so fixed, hear such appeal and all objections thereto advanced by persons interested, and may confirm or revise the addition or alteration, or may remit the case to the Collector for further consideration and revision.

(*4*) The decision of the Commissioner on any such appeal shall be final.

(*5*) Every addition and alteration made under this section shall be published, in such manner as to the Collector may seem fit, after the expiration of one month—

(*i*) from the time when the addition or alteration was made, or

(*ii*) if any appeal has been preferred under sub-section (*2*), from the decision of the appeal;

and the addition or alteration shall take effect from the date of such publication; and proceedings may thereupon be taken under this Act, in respect of such addition or alteration, as if a new order embodying it had been made under section 36."

Amendment of section 37.

7. (*1*) In section 37 of the said Act,—

for the words "its service" the words "the service thereof" shall be substituted, and

for the words "at the rate of five *per centum per annum*" the words "up to the day of payment" shall be substituted.

(*2*) The words "at the said rate," in the said section 37, are hereby repealed.

(PART I.—*Amendment of the Bengal Drainage Act, 1880.*—*Secs. 8, 9.*)

Insertion of new Part, IVA.

8. After section 41 of the said Act the following shall be inserted, namely :—

"PART IVA.

"RECOVERY OF SHARE OF PAYMENTS FROM CO-SHARERS.

Power to recover share of payments from co-sharers.

"41A. When any landholder has made any payment under the foregoing provisions of this Act in respect of land which he holds jointly with other persons, and such payment exceeds the amount which is proportionate to his individual interest in the land, he may—

(*a*) recover from his co-sharers, respectively, such contributions towards such payment as are proportionate to their individual interests in the land, either—

(*i*) in the same manner in which arrears of rent are recoverable under the Bengal Tenancy Act, 1885, and under similar penalties, or— VIII of 1885.

(*ii*) if such co-sharers have been declared by any order passed under section 36 or revised under section 36A to be liable to pay—

upon application to the Collector as hereinafter provided ; or

(*b*) take credit for such contributions as aforesaid in any adjustment of accounts between himself and his co-sharers."

Insertion of new sections, 44A and 44B.

9. After section 44 of the said Bengal Drainage Act, 1880, Ben. VI of 1880. the following shall be inserted, namely :—

Recovery, under the certificate procedure, of payments made in respect of land held by tenants.

"44A. (*1*) If any landholder or superior tenant has made any payment under the foregoing provisions of this Act in respect of lands which are or were held by tenants immediately from him, and which have been benefited by any scheme or works carried out under this Act,

and if he has not enhanced the rent of such tenants under section 42, clause (*a*), or section 43, clause (*a*), or recovered under section 42, clause (*b*), section 43, clause (*b*), or section 44 the sums due to him,

(PART I.—*Amendment of the Bengal Drainage Act, 1880.—Secs. 10, 11.*)

he may, upon application to the Collector as hereinafter provided, but subject to the provisions of sub-section (*1*) of section 44 as to instalments, recover from such tenants such sums as he may be entitled to according to the proportion and under the rules laid down in clause (*c*) of section 42, with interest from the date of such payment.

(*2*) An application in respect of a payment may be made under this section by a landholder who was declared by an order passed under section 36 to be liable to make such payment, although his name has been removed, by an order made under section 36A, from the list of persons declared liable to make payments.

(*3*) If any tenants referred to in sub-section (*1*) have transferred their tenancies, the sums referred to in that sub-section may be recovered thereunder—

(*a*) from the said tenants for the period during which they occupied the benefited land since the carrying out of the said scheme or works, or

(*b*) from the tenants in possession.

Bar to recovery of money from tenants in certain cases.

"44B. Notwithstanding anything hereinbefore contained, no sum shall be recoverable under section 42, clause (*b*), section 43, clause (*b*), section 44 or section 44A, in respect of any lands which have been benefited by any scheme or works carried out under this Act, when, in consequence of such scheme or works,—

(*a*) the rent of such lands has been increased, or

(*b*) rent has for the first time been imposed on such lands."

Amendment of section 45.

10. In section 45 of the said Act, after the figures "43" the words and figures "or under section 44A" shall be inserted.

Amendment of section 48.

11. (*1*) At the end of sub-section (*1*) of section 48 of the said Act the following shall be added, namely:—

"and for that purpose the procedure prescribed by section 41A or section 44A and sections 51B and 51C shall be applicable."

(Part I.—*Amendment of the Bengal Drainage Act, 1880.*—*Sec. 12.*)

(*2*) In sub-section (*3*) of section 48 of the said Act, for the word "five" the word "four" shall be substituted.

Insertion of new sections, 51A to 51J.

12. After section 51 of the said Act the following shall be inserted, namely:—

Recovery, under the certificate procedure, of payments made in respect of land held free of rent or revenue.

"51A. Any person who has been determined under section 50 to be the landholder in respect of land, held free of rent or revenue, which has benefited by any scheme or works carried out under this Act, and who has made any payment under the foregoing provisions of this Act in respect of such land, may, upon application to the Collector as hereinafter provided, but subject to the provisions of section 51, recover the amount of such payment from any person holding such land immediately below him.

Further provisions as to applications under section 41A, 44A or 51A.

"51B. (*1*) Every application to the Collector under section 41A for the recovery of contributions from co-sharers towards a payment made by a landholder under the foregoing provisions of this Act, must—

(*a*) be made within six months after such payment was made, and

(*b*) specify the amount of such payment, and the amount of such contributions due from each co-sharer.

(*2*) Every application to the Collector under section 44A or section 51A for the recovery of sums due, from tenants of, or persons holding, lands benefited by any scheme or works carried out under this Act, on account of any payment made by the applicant under the foregoing provisions of this Act, must—

(*c*) be made within six months after such sums became due,

(*d*) specify the amount of such payment, and the date on which it was made,

(*e*) specify the amount of such sums due from each tenant or person holding land, and the date on which it became due, and

(PART I.—*Amendment of the Bengal Drainage Act, 1880.*—*Sec. 12.*)

(*f*) be accompanied by a declaration, signed by the applicant and stating—

(*i*) that he has not, on account of the said scheme or works, enhanced the rent, if any, payable in respect of the said lands or any of them, and

(*ii*) that he has not taken from such tenants or persons holding land, or any of them, any premium on account of such scheme or works.

(*3*) Every application under section 41A, section 44A or section 51A must—

(*g*) be signed and verified in the manner provided by sections 51 and 52 of the Code of Civil Procedure for the signature and verification of plaints, XIV of 1882.

(*h*) be accompanied by a court-fee of eight annas, and

(*j*) request the Collector to make a certificate authorising the recovery of the said contributions or sums, as the case may be, under the Public Demands Recovery Act, 1895. Ben. I of 1895.

(*4*) Every declaration made under clause (*f*) shall, for the purposes of section 199 of the Indian Penal Code, be deemed to be a declaration which the Collector is authorised by law to receive as evidence. XLV of 1860.

(*5*) If the Collector at any time has reason to believe that any declaration accompanying an application as aforesaid, or any part thereof, is false, he may reject the application and leave the applicant to pursue his claim in a Civil Court.

"51C. (*1*) Upon receiving any such application, the Collector may, if he thinks fit, make a certificate as aforesaid.

Grant of certificate, and effect thereof.

(*2*) Every such certificate shall have the same effect as a certificate made under section 7 of the said Public Demands Recovery Act, 1895; and the same notices shall be issued, and the same proceedings may be taken, with respect thereto, by the Certificate Officer, as in the case of a certificate made under that section. Ben. I of 1895.

(PART I.—*Amendment of the Bengal Drainage Act, 1880.*—*Sec. 12*)

(*3*) The person in whose favour any such certificate is made shall be deemed to be the decree-holder for the amount mentioned in the certificate, and the person against whom the certificate is made shall be deemed to be the judgment-debtor for the said amount; and all proceedings taken by the Certificate Officer for the recovery of such amount shall be taken at the instance of the first-mentioned person, and at his cost, and on his responsibility, and not otherwise.

(*4*) If any person against whom any such certificate is made objects that the contributions or sums claimed by the person who applied for the certificate are not legally due, or exceed the sums which the applicant could recover from him in a Civil Court as being payable in respect of his individual interest in the land, and if the Certificate Officer considers there is probable ground for such objection, the Certificate Officer may modify the certificate or, if he thinks fit, cancel the certificate and leave the applicant to pursue his claim in a Civil Court.

"51D. (*1*) If, in any area benefited by any scheme or works carried out under this Act, there has occurred in any year a total or serious failure of crops, then, notwithstanding anything hereinbefore contained, the Collector may,

Power of Collector to suspend recovery of dues in case of failure of crops.

after such inquiry (if any) as he deems necessary, and with the previous sanction of the Commissioner of the Division,

by written order, suspend, for the whole or any part of that year, the recovery of all or any sums which are recoverable from landholders and tenants, respectively, in respect of such area under the foregoing provisions of this Act.

(*2*) Every such order shall be published in the manner prescribed in section 12 for the publication of the notifications referred to in that section.

(*3*) When any such order has been duly published, all proceedings under the Public Demands Recovery Act, 1895, and all suits by landholders or tenants, for the recovery of any sums to which such order relates, shall be stayed during the period specified in the order. Ben. I of 1895.

(PART I.—*Amendment of the Bengal Drainage Act, 1880.—Sec. 13.*)

"51E. An order duly made and published under section 51D shall not be questioned in any Civil or Revenue Court.

Bar to jurisdiction of Courts in respect of order of suspension.

"51F. If any landholder or tenant, during any period specified in an order duly made and published under section 51D, collects any sums payable to him to which such order relates, then all sums payable by him to which such order relates may be recovered from him as if such order had not been made.

Procedure when landholder or tenant collects dues during period of suspension.

"51G. When an order has been duly made and published under section 51D, suspending the recovery of any sums for any period, then, if such sums form part of a sum which is, in pursuance of this Act, payable by instalments, the period remaining for the payment of such instalments shall be extended by the period specified in such order, and no more than one instalment of the sum remaining due shall be payable in any succeeding year.

Extension of period for payment of instalments, when order of suspension made.

"51H. When an order has been duly made and published under section 51D, suspending the recovery of any sums for any period, such period shall be excluded in computing the period of limitation prescribed for a suit or application for the recovery of such sums.

Extension of period of limitation, when order of suspension made.

"51J. When an order has been duly made and published under section 51D, suspending the recovery of any sums for any period, then, notwithstanding anything hereinbefore contained, no interest shall accrue on such sums during such period."

Interest not to accrue during period of suspension.

Amendment of Schedule B.

13. (*1*) In Schedule B to the said Bengal Drainage Act, 1880, for the word "five" the word "four" shall be substituted. Ben. VI of 1880.

(*2*) To the said Schedule the following shall be added, namely:—

"together with simple interest, at the rate of four *per centum per annum*, on all instalments remaining unpaid at the date of each such payment."

(PART II.—*Past claims and charges in respect of the drainage schemes of Howrah and Rajapur.*—*Secs. 14, 15.*)

PART II.—*Past claims and charges in respect of the drainage schemes of Howrah and Rajapur.*

Recovery, under the certificate procedure, of certain subsisting claims in respect of the Howrah and Rajapur drainage schemes.

14. The provisions of sections 41A, 44A, 51A, 51B [except clauses (*a*) and (*c*)] and 51C of the Bengal Drainage Act, 1880, as amended by this Act, as to the recovery of moneys upon application to the Collector, shall apply also to all claims which have already accrued in respect of the drainage schemes of Howrah and Rajapur and which, at the commencement of this Act, are unsatisfied and have not been barred by limitation: Ben. VI of 1880.

Provided that every application under any of the said sections in respect of any such claim be made within three months from the commencement of this Act.

Reduction of past charges in respect of the Howrah and Rajapur drainage schemes.

15. (*1*) The Collector shall, as soon as conveniently may be, revise all orders heretofore passed under section 36 of the said Bengal Drainage Act, 1880, which declared the sums payable in respect of lands benefited by the drainage schemes of Howrah and Rajapur, so as— Ben. VI of 1880.

(*a*) to reduce all charges for interest to the sums which would have been chargeable if the amendments made by this Act had been in force when such orders were passed, and

(*b*) to make such reductions (if any) in other charges as may be directed by the Local Government.

(*2*) When the reductions directed by or under sub-section (*1*) have been made in respect of any scheme, the Collector shall make an order stating—

(*i*) that all holders of land benefited by the scheme, and all tenants of such land, are entitled to proportionate relief,

(*ii*) how such relief is to be apportioned in respect of each class of such land,

(PART II.—*Past claims and charges in respect of the drainage schemes of Howrah and Rajapur.*—*Secs. 16, 17.*)

(*iii*) such particulars as to the determination of the persons who are entitled to such relief, and as to the determination of the sums to which such persons are respectively entitled, as may be prescribed by rules made under section 19, and

(*iv*) any other particulars prescribed by such rules.

(*3*) Every order made under sub-section (*2*) shall be subject to the approval of the Commissioner.

(*4*) When any such order has been so approved, it shall be published in such manner as to the Collector may seem fit, and shall, after such publication, be conclusive evidence in any Civil Court, and in any proceedings under this Act, of the matters stated therein.

Refunding or crediting of reduction to landholder.

16. (*1*) If, prior to the publication of any order made under section 15 in respect of any scheme, the whole sum payable by any landholder in respect of such scheme has been duly paid, then such landholder shall, upon such publication, be entitled to a refund of the sum to which he is entitled under such order.

(*2*) If, when any order made under section 15 in respect of any scheme has been duly published, any sum payable by any landholder in respect of such scheme still remains to be paid, then the sum to which such landholder is entitled under such order shall be credited to him.

Proportionate reduction in amounts recoverable by landholder from tenants.

17. (*1*) When any sum has been refunded or credited to a landholder under section 16 of this Act, the amounts which were recoverable by him under section 42, clause (*b*), section 44, section 44A or section 51A of the said Bengal Drainage Act, 1880, from persons who have held or are now holding land immediately from him, shall be proportionately reduced. Ben. VI of 1880.

(*2*) Any such persons who have paid such amounts shall have a right, at their option,—

(*a*) to a refund of the sums to which they are entitled under sub-section (*1*), or

(*b*) to take credit for such sums in any adjustment of accounts between themselves and the landholder.

(PART II.—*Past claims and charges in respect of the drainage schemes of Howrah and Rajapur.*—*Secs. 18, 19.*)

Proportionate reduction in amounts recoverable by superior tenants from under-tenants.

18. (*1*) When any sum recoverable from a superior tenant is liable to reduction under section 17 of this Act, the amounts which were recoverable by him under section 43, clause (*b*), section 44, section 44A or section 51A of the said Bengal Drainage Act, 1880, from persons who have held or are now holding land directly from him, shall be proportionately reduced.

(*2*) Any such persons who have paid such amounts shall have a right, at their option,—

(*a*) to a refund of the sums to which they are entitled under sub-section (*1*), or

(*b*) to take credit for such sums in any adjustment of accounts between themselves and the superior tenant.

Power to make rules as to reductions.

19. (*1*) The Local Government may, after previous publication, make rules for carrying out and giving effect to the provisions of sections 15 to 18.

(*2*) In particular, and without prejudice to the generality of sub-section (*1*), the Local Government may—

(*a*) prescribe the particulars to be stated in orders made under section 15, and

(*b*) declare the conditions under which refunds and credits shall be made under sections 16, 17 and 18.

(*3*) All rules made under this section shall be published in the Calcutta Gazette and in such other manner (if any) as the Local Government may direct.

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A COLLECTION OF THE ACTS

PASSED BY THE

LIEUT.-GOVERNOR OF BENGAL IN COUNCIL

IN THE YEAR 1903.

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TITLES OF ACTS

PASSED BY THE

LIEUT.-GOVERNOR OF BENGAL IN COUNCIL

IN THE

YEAR 1903.

No. I.—An Act to validate certain transfers made under the Bengal Tenancy Act, 1885, of permanent tenures and holdings at fixed rents or fixed rates and of shares in the same; and to amend section 106 of that Act.

„ II.—An Act to amend the Bengal Excise Act, 1878.

„ III.—An Act for regulating the use of motor-cars and cycles in streets and public places in Bengal.

„ IV.—An Act to amend the Chittagong Port Commissioners Act, 1887.

„ V.—An Act to amend the Chota Nagpur Landlord and Tenant Procedure Act and the Chota Nagpur Commutation Act, 1897.

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Warrant. *See* Offenders.		
Women: employment of, by licensed vendors, prohibited	II	7 [27A]
Zamindar (s):		
to admit to registry transfers of tenures ...	V	17 [34 (*2*)]
entitled to levy a registration-fee	„	17 [34 (*3*)]
not bound by terms or conditions of transfer ...	„	17 [34 (*7*)]

B. S. Press- 683G—2,000—26-12-1903- E. J. H.

BENGAL ACT No. I OF 1903.

[PUBLISHED IN THE CALCUTTA GAZETTE OF THE 25TH FEBRUARY, 1903.]

An Act to validate certain transfers, made under the Bengal Tenancy Act, 1885, of permanent tenures and holdings at fixed rents or fixed rates and of shares in the same; and to amend section 106 of that Act. VIII of 1885.

WHEREAS doubts and difficulties have arisen respecting the meaning and effect of sections 12, 13, 17 and 18 of the Bengal Tenancy Act, 1885, as regards the payment of the prescribed landlord's fee, and the effect of the non-payment of such fee; VIII of 1885.

And whereas it is expedient to declare that registered transfers and sales and decrees or orders for foreclosure of mortgage, confirmed and made absolute by the Civil Courts, of permanent tenures and holdings at fixed rates and fixed rents, and of shares in such tenures and holdings, shall not be deemed to be invalid merely on the ground that the landlord's prescribed fee has not been paid;

And whereas it is also expedient to amend section 106 of the said Act in manner hereinafter appearing;

And whereas, the said Act having been passed by the Governor General of India in Council, the sanction of the Governor General has been obtained, under section 5 of the Indian Councils Act, 1892, to the passing of this Act; 55 & 56 Vict., c. 14.

It is hereby enacted as follows:—

Validation of transfers of tenures and holdings and shares in the same.

1. No transfer which has heretofore been made or which may hereafter be made under section 12, section 13, section 17 or section 18 of the Bengal Tenancy Act, 1885, of a permanent tenure, or of a holding at a rent or rate of rent fixed in perpetuity or of a share in such tenure or holding, shall be deemed to be invalid merely on the ground that the landlord's fee prescribed by the said sections 12 or 13 has not been paid: VIII of 1885.

Provided always that, subject to the *Explanation* following, nothing in this section shall be held to affect the decision of a Court of competent jurisdiction which has become final before the commencement of this Act.

Explanation.—A decree in a suit for rent which has become final disallowing a claim for rent on the ground that the relationship of landlord and tenant does not exist between the parties

[*Price—Indian, six pies; English,* ½*d.*]

to the suit by reason of the non-payment of the landlord's fee, shall not bar a suit for rent which became payable subsequently to such claim.

Realization of fee when left unpaid.

2. In any case where the prescribed fee has been or may hereafter be left unpaid, the landlord may, within two years of the commencement of this Act,

or within two years of the date of registration of the document effecting the transfer,

or within two years of the date of confirmation of the sale by the Civil Court,

or within two years of the date upon which a decree or order absolute for the foreclosure of a mortgage has been or may hereafter be made by the Civil Court,

apply to the Collector for realization of such fee from the transferee, or from the auction-purchaser or from the person who has obtained an order absolute for foreclosure of mortgage in the Civil Court, and on such application being presented, the Collector shall realize such fee if still unpaid, together with costs of realization, from such person as if it were an arrear of revenue.

Saving of section 88.

3. Nothing in section 1 shall be deemed to affect the provisions of section 88 of the said Bengal Tenancy Act, 1885. VIII of 1885.

Substitution of a new section for section 106.

4. For section 106 of the said Act, the following shall be substituted, namely:—

"106. In proceedings under this Part, a suit may be instituted before a Revenue-officer at any time within three months from the date of the certificate of the final publication of the record-of-rights under sub-section (*2*) of section 103A of this Act, by presenting a plaint on stamped paper for the decision of any dispute regarding any entry which a Revenue-officer has made in, or any omission which the said officer has made from, the record, whether such dispute be between landlord and tenant or between landlords of the same or of neighbouring estates, or between tenant and tenant, or as to whether the relationship of landlord and tenant exists, or as to whether land held rent-free is properly so held, or as to any other matter, and the Revenue-officer shall hear and decide the dispute:

Institution of suit before a Revenue-officer.

Provided that the Revenue-officer may, subject to such rules as the Local Government may prescribe in this behalf, transfer any particular case or class of cases to a competent Civil Court for trial."

Short title.

5. This Act may be called the Bengal Tenancy (Validation and Amendment) Act, 1903.

BENGAL ACT No. II OF 1903.

[PUBLISHED IN THE CALCUTTA GAZETTE OF THE 18TH MARCH, 1903.]

An Act to amend the Bengal Excise Act, 1878.

WHEREAS it is expedient to amend the Bengal Excise Act, 1878 (Bengal Act VII of 1878), in manner hereinafter appearing;

It is hereby enacted as follows:—

Short title.

1. This Act may be cited as the Bengal Excise and Licensing (Amendment) Act, 1903.

Amendment of heading.

2. In place of the words "*the Excise Revenue*" in the heading of the Bengal Excise Act, 1878, the words "*exciseable articles and the revenue derivable therefrom*" shall be substituted.

Amendment of Preamble.

3. In the Preamble of the said Act, after the word "articles" the words "to the regulation and licensing of places in which such articles are sold" shall be inserted.

Amendment of section 1.

4. After the word "Excise" in section 1 of the said Act the words "and Licensing" shall be inserted.

Amendment of section 11.

5. In section 11 of the said Act, after the word "Collector" the words "or otherwise than in accordance with the conditions expressed in such license" shall be inserted.

Amendment of section 27.

6. In section 27 of the said Act, after the word "direct" in the first line, the words "every license shall be granted for" shall be omitted, and in their place the following words shall be substituted:—

"no license granted under this Act shall be transferable by the licensee or shall endure for a longer period than".

Insertion of new section 27A.

7. After section 27 of the said Act, the following shall be inserted, namely:—

"27A. (*1*) No licensed vendor shall during the hours in which his licensed premises may be kept open employ or permit to be employed in the public rooms of his licensed premises, either with or without remuneration, any woman to assist him in the conduct of such business in any capacity whatsoever, otherwise than with permission previously obtained in writing from the Board.

Employment of women by licensed vendors.

[*Price—Indian, six pies; English,* ½*d.*]

(2) Such permission shall be endorsed on his license and may from time to time be modified or withdrawn."

Amendment of section 28.

8. After the word "conditions" in section 28 of the said Act, the words "consistent with this Act" shall be inserted, and after the words "under this Act" in the same section the following clause shall be added:—

Conditions to be attached to licenses.

"and in particular, but without prejudice to the generality of the foregoing power, may insert in any license granted under this Act conditions relating to all or any of the following matters to be observed by the licensee, and may modify such conditions from time to time—

(1) as to the place of sale and the places from which exciseable articles for purposes of sale may be obtained;

(2) as to the transfer of a license by the person to whom such license was originally granted to any other person;

(3) as to the hours during which licensed premises may, or may not, be kept open;

(4) as to the persons or classes of persons to whom a licensee may, or may not, sell exciseable articles;

(5) as to the employment of women under section 27A;

(6) as to the keeping by licensed vendors of accurate accounts of the sales of exciseable articles in such form as may from time to time be fixed by the Board;

(7) as to the placing of sign-boards over the shops of licensed vendors in such form as may be fixed by the Board."

Amendment of section 67.

9. In section 67 of the said Act, between the word "shop" and the word "or" in the second line, the words "or permits two or more persons who have been convicted of any non-bailable offence, or who are reputed prostitutes, to assemble in his shop, whether for the purposes of crime or prostitution or not," shall be inserted.

BENGAL ACT No. III of 1903.

[Published in the Calcutta Gazette of the 1st April, 1903.]

An Act for regulating the use of motor-cars and cycles in streets and public places in Bengal.

Whereas it is expedient to provide for regulating the use of motor-cars and cycles in streets and public places in Bengal;

It is hereby enacted as follows:—

Short title and local extent.

1. (*1*) This Act may be called the Bengal Motor-car and Cycle Act, 1903;

(*2*) It extends to—

(*a*) the town of Calcutta, as defined in section 3 of the Calcutta Police Act, 1866, Ben. Act IV of 1866.

(*b*) the suburbs of Calcutta, as for the time being defined by notifications published under section 1 of Bengal Act II of 1866 (*An Act to provide for the better regulation of the Police within the suburbs of the town of Calcutta*), and

(*c*) the town of Howrah; and

(*3*) The Local Government may, by notification in the Calcutta Gazette, extend it to any other town or area in Bengal.

Definition of "motor-car."

2. A "motor-car" shall include a vehicle, carriage or other means of conveyance, propelled, or which may be propelled, by mechanical power, either entirely or partially.

Power of Local Government to make rules.

3. (*1*) The Local Government may, from time to time, after previous publication, make, modify, or cancel rules for regulating the use of motor-cars and cycles in streets, public places, and any other area to which the Act applies.

(*2*) Without prejudice to the generality of the foregoing power, the Local Government may make rules under this section containing directions as to all or any of the following matters, namely:—

(*a*) prohibiting the use of motor-cars which are not so constructed as to admit of their being at all times under due control,

(*b*) prohibiting the use of motor-cars not provided with brakes of such character as may be required by the rules,

[*Price—Indian, nine pies; English,* ¾*d.*]

(c) the maintenance of motor-cars and their fittings in such a condition as to prevent danger to the public or any person,

(d) the standard of competency for driving or taking charge of a motor-car to be required by the Local Government,

(e) prohibiting the driving of motor-cars by incompetent persons,

(f) prohibiting the leaving of motor-cars unattended or in the charge of incompetent persons,

(g) the speed at which motor-cars and cycles may be driven and ridden,

(h) the carrying of a speed-indicator on motor-cars,

(i) the carrying of number and name plates on motor-cars, and the registration thereof,

(j) the rule of the road,

(k) prohibiting the driving of motor-cars or the riding of cycles on foot-ways, streets or other places, where their use may be attended with danger to the public,

(l) the carrying and use of a bell or other instrument on motor-cars and cycles for giving audible and sufficient warning of their approach or position,

(m) the carrying of lights on motor-cars and cycles between sunset and sunrise, and the description of lights to be carried on motor-cars and the position in which they should be placed,

(n) the stoppage of motor-cars when required by the police for the regulation of traffic or for other reasonable purpose, and

(o) generally, the prevention of danger or injury to persons, animals, vehicles or goods, and the prevention of obstruction to traffic.

(3) All rules made under this section shall be finally published in the Calcutta Gazette and shall come into operation from the date of such final publication.

Penalties for breach of rules.

4. Any breach of any rule made under this Act may on conviction be punished with fine which may extend to fifty rupees, or, in the case of a second or subsequent conviction, to one hundred rupees.

Arrest of offenders without warrant.

5. (*1*) Any police-officer may, without an order from a Magistrate and without a warrant, arrest any person committing in his view a breach of any rule made under section 3, if the name and residence of such person be unknown to such officer and cannot be ascertained by him then and there.

(*2*) When any such arrest has been made, the provisions of section 57, sub-sections (*2*) and (*3*), and sections 60 to 63 of the Code of Criminal Procedure, 1898, shall apply. V of 1898.

Offences by whom triable.

6. Offences committed in contravention of this Act shall be triable by Presidency Magistrates or by any Magistrate of the first class within whose jurisdiction the offence may have been committed.

BENGAL ACT No. IV OF 1903.

[PUBLISHED IN THE CALCUTTA GAZETTE OF THE 6TH MAY, 1903.]

An Act to amend the Chittagong Port Commissioners Act, 1887.

WHEREAS it is expedient to amend the Chittagong Port Commissioners Act, 1887; Ben. Act IV of 1887.

It is hereby enacted as follows:—

Short title. 1. This Act may be called the Chittagong Port Commissioners (Amendment) Act, 1903.

Insertion of new section 10A. 2. After section 10 of the Chittagong Port Commissioners Act, 1887, the following shall be inserted, namely:—

Leave of absence and leave-allowances to the Vice-Chairman. "10A. (*1*) The Local Government may—

(*a*) grant such leave of absence and such leave-allowances to the Vice-Chairman as it thinks fit, and

(*b*) appoint another of the Commissioners to act for the Vice-Chairman during his absence on leave, and assign to him such acting-allowance as it thinks fit.

(*2*) Any Commissioner appointed under sub-section (*1*) to act for the Vice-Chairman shall, while so acting, have all the powers and perform all the duties of the Vice-Chairman under this Act.

(*3*) A temporary vacancy in the office of a Commissioner, occasioned by the absence on leave of the Vice-Chairman, shall, if and when necessary, be filled up by election or appointment in the manner hereinbefore provided in section 9:

Provided that the person so elected or appointed shall vacate his office upon the expiry of the leave of absence granted to the Vice-Chairman."

Insertion of new sections 33A & 33B. 3. After section 33 of the said Act the following shall be inserted, namely:—

Power to impose river-due and to raise rate thereof. "33A. (*1*) The Commissioners may, with the previous sanction of the Local Government, by notification, impose a river-due on all goods landed from or shipped into any sea-going vessel lying or being within the limits of the port, whether such goods shall or shall not be so landed or shipped at any wharf, quay, stage, jetty or pier belonging to the Commissioners.

[*Price—Indian, six pies; English, ½ pence.*]

(2) The rate of the said due shall not exceed four annas nor be less than one anna for each ton of goods.

(3) Subject to the limits enacted by the foregoing sub-section, the Commissioners may, with the previous sanction of the Local Government, at any time or from time to time, by notification, raise or reduce the rate to be imposed, whether generally or on any particular goods or class of goods.

"33B. Every notification issued under section 33A shall be published in the Calcutta Gazette; and a copy thereof, in the English and Bengali languages and characters, shall be kept affixed in some conspicuous place to be appointed by the Commissioners."

Publication of notifications.

Insertion of new section 64A.

4. After section 64 of the said Act the following shall be inserted, namely:—

"64A. (1) The Commissioners may from time to time make bye-laws for determining—

Power to make bye-laws as to pensions, &c.

(a) the conditions under which officers and servants mentioned in the schedule sanctioned under section 62, or any of them, shall, on retirement, receive pensions, gratuities or compassionate allowances, and

(b) the amount of such pensions, gratuities and allowances.

(2) Bye-laws made under sub-section (1) shall not take effect unless and until they have been confirmed by the Governor General in Council."

B. S. Press—66G—2,000—5-5-1903.

BENGAL ACT No. V. OF 1903.

[PUBLISHED IN THE CALCUTTA GAZETTE OF THE 30TH SEPTEMBER, 1903.]

An Act to amend the Chota Nagpur Landlord and Tenant Procedure Act and the Chota Nagpur Commutation Act, 1897.

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[*Price—Indian, five annas; English, five pence.*]

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BENGAL ACT No. V OF 1903.

[PUBLISHED IN THE CALCUTTA GAZETTE OF THE 30TH SEPTEMBER, 1903.]

An Act to amend the Chota Nagpur Landlord and Tenant Procedure Act and the Chota Nagpur Commutation Act, 1897.

WHEREAS it is expedient to amend the Chota Nagpur Landlord and Tenant Procedure Act and the Chota Nagpur Commutation Act, 1897; Ben. Act I of 1879. Ben. Act IV of 1897.

And whereas the previous sanction of the Governor General has been obtained, under section 5 of the Indian Councils Act, 1892, to the provisions of this Act which affect Acts passed by the Governor General of India in Council; 55 & 56 Vict., c. 14.

It is hereby enacted as follows:—

PART I.—PRELIMINARY.

Short title, commencement and application.

1. (*1*) This Act may be called the Chota Nagpur Tenancy (Amendment) Act, 1903; and

(*2*) It shall come into force on such date as the Local Government, with the previous sanction of the Government of India, may, by notification in the Calcutta Gazette, appoint in this behalf.

(*3*) The provisions of this Act shall apply to all proceedings instituted after the commencement of this Act, and, so far as may be, to all cases pending in any Court or before any officer on the date of such commencement.

PART II.—AMENDMENT OF THE CHOTA NAGPUR LANDLORD AND TENANT PROCEDURE ACT.

Ben. Act I of 1879.

Amendment of section 2 of Bengal Act I of 1879.

2. (*1*) In section 2 of the Chota Nagpur Landlord and Tenant Procedure Act, at the end of the definition of "Deputy Collector" the words "and any Sub-Deputy Collector who

is specially empowered by the Local Government to discharge the functions of a Deputy Collector under this Act" shall be inserted.

(2) At the end of the same section the following shall be added, namely:—

"(*a*) 'bhugut bandha mortgage' means a transfer of the interest of a tenant in his tenancy,

for the purpose of securing the payment of money advanced or to be advanced by way of loan,

upon the condition that the loan, with all interest thereon, shall be deemed to be extinguished by the profits arising from the tenancy during the period of the mortgage;

"(*b*) 'Certificate Officer' means a Certificate Officer as defined in clause (*2*) of section 4 of the Public Demands Recovery Act, 1895; Ben. Act I of 1895.

"(*c*) 'Deputy Commissioner' means the Deputy Commissioner of a district, and includes any Revenue-officer whom the Local Government may from time to time appoint, by name or in virtue of his office, to discharge any of the functions of a Deputy Commissioner under this Act;

"(*d*) 'holding' means a parcel or parcels of land held by a raiyat and forming the subject of a separate tenancy;

"(*e*) 'landlord' means a person immediately under whom a tenant holds, and includes the Government;

"(*f*) 'moveable property' includes standing crops;

"(*g*) 'Mundari khunt-kattidar' means a Mundari who has acquired a right to hold jungle land for the purpose of bringing suitable portions thereof

(*Part II.—Amendment of the Chota Nagpur Landlord and Tenant Procedure Act.—Sec. 2.*)

under cultivation by himself or by male members of his family, and includes—

(*i*) the heirs male in the male line of any such Mundari, when they are in possession of such land, and

(*ii*) as regards any portions of such land which have remained continuously in the possession of any such Mundari and his descendants in the male line, such descendants;

"(*h*) 'Mundari khunt-kattidari tenancy' means the interest of a Mundari khunt-kattidar;

"(*j*) 'raiyat' means primarily a person who has acquired a right to hold land for the purpose of cultivating it by himself, or by members of his family, or by hired servants, or with the aid of partners; and includes also the successors in interest of persons who have acquired such a right, but does not include a Mundari khunt-kattidar:

"*Explanation.*—Where a tenant of land has the right to bring it under cultivation, he shall be deemed to have acquired a right to hold it for the purpose of cultivation, notwithstanding that he uses it for the purpose of gathering the produce of it or of grazing cattle on it:

A person shall not be deemed to be a raiyat unless he holds land either immediately under a proprietor or immediately under a tenure-holder or immediately under a Mundari khunt-kattidar:

In determining whether a tenant is a tenure-holder or a raiyat, the Court shall have regard to local custom and to the purpose for which the right of tenancy was originally acquired;

(*Part II.—Amendment of the Chota Nagpur Landlord and Tenant Procedure Act.—Sec. 2.*)

"(*k*) 'registered' means registered under any Act for the time being in force for the registration of documents;

"(*l*) 'rent' includes also money recoverable under any enactment for the time being in force as if it was rent;

"(*m*) 'resumable tenure' means a tenure which is held subject to the condition that it shall lapse to the estate of the grantor and be resumable by him or his successor in title—

(i) on failure of male heirs of the body of the original grantee in the male line, or

(ii) on the happening of any definite contingency other than that referred to in sub-clause (i);

"(*n*) 'tenant' means a person who holds land under another person and is, or but for a special contract would be, liable to pay rent for that land to that person;

"(*o*) 'tenure' means the interest of a tenure-holder, and includes an under-tenure, but does not include a Mundari khunt-kattidari tenancy, and

"(*p*) 'tenure-holder' means primarily a person who has acquired from the zamindar, or from another tenure-holder, a right to hold land for the purpose of collecting rents or bringing it under cultivation by establishing tenants on it; and includes also the successors in interest of persons who have acquired such a right, and the holders of tenures entered in the register prepared under section 5 of the Chota Nagpur Tenures Act, 1869, as confirmed under section 25 of that Act; but does not include a Mundari khunt-kattidar."

Ben. Act II of 1869.

(*Part II.—Amendment of the Chota Nagpur Landlord and Tenant Procedure Act.—Secs. 3-5.*)

Amendment of section 6.

3. (*1*) The words "so long as he pays the rent payable on account of the same," in section 6 of the said Chota Nagpur Landlord and Tenant Procedure Act, are repealed. Ben. Act 1 of 1879.

(*2*) To section 6 of the said Act the following shall be added, namely:—

"Any land which a raiyat has from time to time received in exchange for land previously held by him shall, for the purpose of calculating, under this section, the period of twelve years, be deemed to be the same land as the land which he held before the exchange.

"Every raiyat who cultivates or holds land known as korkar, baiballa, khandwat, sajhwát, jalsasan or ariat shall have a right of occupancy in such land, notwithstanding that he has not cultivated or held the land for a period of twelve years."

Amendment of section 7.

4. In section 7 of the said Act, before the words "the last preceding section" the words "the first two paragraphs of" shall be inserted.

Insertion of new sections, 10A and 10B.

5. After section 10 of the said Act the following shall be inserted, namely:—

"10A. (*1*) No decree or order shall be passed by any Court for the sale of the right of a raiyat in his holding, nor shall any such right be sold in execution of any decree or order:

Restrictions on sale of raiyats' rights under order of Court.

"Provided as follows:—

(*a*) any holding may be sold, in execution of a decree of a competent Court, to recover an arrear of rent which has accrued in respect of the holding; and

(*b*) nothing in this section shall affect the right to execute a decree for sale of a holding passed, or the terms or conditions of any contract registered, before the first day of January, 1903.

(*Part II.—Amendment of the Chota Nagpur Landlord and Tenant Procedure Act.—Sec. 5.*)

"*Explanation I.*—Where a holding is held under joint landlords, and a decree has been passed for the share of the rent due to one or more, but not all, of them, proviso (*a*) does not authorise the sale of the holding in execution of such decree.

"*Explanation II.*—Proviso (*b*) does not render valid any document which is otherwise illegal or invalid, or authorise a Court to take judicial cognizance of any such document.

"*Explanation III.*—This sub-section does not prevent the sale of a holding for the recovery, under the Public Demands Recovery Act, 1895, of a loan granted for the benefit of the holding under the Land Improvement Loans Act, 1883, or the Agriculturists' Loans Act, 1884. Ben. Act I of 1895. XIX of 1883. XII of 1884.

"(*2*) When a holding is sold for an arrear of rent which has accrued in respect thereof, the rent shall be a first charge on the holding.

"10B. (*1*) No transfer by a raiyat of his right in his holding or any portion thereof, by mortgage or lease for any period exceeding five years, or by sale, gift or any other contract or agreement, shall be valid to any extent: Restrictions on transfer of their rights by raiyats.

"Provided that a raiyat may enter into a bhugut bandha mortgage of his holding or any portion thereof for any period not exceeding seven years.

"(*2*) No transfer by a raiyat of his right in his holding or any portion thereof shall be binding on the landlord unless it is made with his consent in writing.

"(*3*) No transfer in contravention of sub-section (*1*) shall be registered, or shall be in any way recognized as valid by any Court, whether in the exercise of civil, criminal or revenue jurisdiction.

"(*4*) At any time after the expiration of the period for which a raiyat has, under this section, transferred his right in his holding or any portion thereof, the Deputy Commissioner may, in his

discretion, on the application of the raiyat, put the raiyat into possession of such holding or portion.

"(*5*) Nothing in this section shall affect the validity of any transfer (not otherwise invalid) of a raiyat's right in his holding or any portion thereof made *bonâ fide* before the first day of January, 1903."

Amendment of section 11.

6. For section 11 of the said Chota Nagpur Landlord and Tenant Procedure Act the following shall be substituted, namely:— Ben. Act I of 1879.

"11. (*1*) A landlord who, except under any special enactment for the time being in force, levies from a tenant any money in excess of the rent legally payable, with interest thereon, or any rakumats or predial services to which he is not legally entitled, shall, on the application of the tenant, be liable,

Penalty on landlord levying anything in excess of rent or lawful rakumats or services.

under the order of a Revenue-officer not below the rank of Deputy Commissioner, or under the order of any officer who may be specially empowered by the Local Government in this behalf,

to pay as penalty such sum as such officer thinks fit, not exceeding two hundred rupees, or, when double the amount or value of what is so levied exceeds two hundred rupees, not exceeding double that amount or value.

"(*2*) Such sum shall be awarded to the tenant as compensation."

Amendment of section 12.

7. For section 12 of the said Act the following shall be substituted, namely:—

"12. (*1*) Every tenant who makes a payment on account of rent, or interest due thereon, or both, to his landlord shall be entitled to obtain forthwith from the landlord or his agent a signed receipt for the same, in a form prescribed by the Local Government from time to time by notification in the Calcutta Gazette.

Receipts for rent and interest thereon.

(*Part II.—Amendment of the Chota Nagpur Landlord and Tenant Procedure Act.—Sec. 8.*)

"(*2*) The landlord or his agent shall prepare and retain a counterfoil of the receipt in a form prescribed as aforesaid.

"(*3*) If any landlord or his agent, without reasonable cause, fails to grant such a receipt or to prepare and retain such a counterfoil, then, on proof thereof, the Deputy Commissioner may, in a summary proceeding, by order, impose on the landlord a fine which may extend to fifty rupees in respect of each such failure; and may, in his discretion, award to the tenant, by way of compensation, such portion of the fine as the Deputy Commissioner may think fit.

"(*4*) If, in any suit or other proceeding under this Act or any other law, the Court or presiding officer (not being the Deputy Commissioner) finds that any landlord or agent has failed—

(*a*) to deliver to a tenant a receipt in the prescribed form as aforesaid, or

(*b*) to prepare and retain a counterfoil in the prescribed form of a receipt delivered to a tenant as aforesaid,

such Court or officer shall inform the Deputy Commissioner."

Amendment of section 13.

8. (*1*) In section 13 of the said Act, for the words "or raiyat", wherever they occur, the words "raiyat or Mundari khunt-kattidar" shall be substituted.

(*2*) In the same section, after the words "entertain a suit" the words "or application" shall be inserted.

(*3*) To the same section the following shall be added, namely:—

"A deposit may be made under this section in either of the following cases, namely:—

(*a*) when an under-tenant, raiyat or Mundari khunt-kattidar who is bound to pay money on account of rent has reason to believe, owing to a tender having been refused or a receipt withheld on a previous occasion,

that the person to whom his rent is payable will not be willing to receive it and to grant him a receipt for it; or

(*b*) when the rent is payable to co-sharers jointly, and the tenant is unable to obtain the joint receipt of the co-sharers for the money, and no person has been empowered to receive the rent on their behalf."

Amendment of section 14.

9. (*1*) In section 14 of the said Act, for the words "or raiyat", in both places in which they occur, the words "raiyat or Mundari khunt-kattidar" shall be substituted.

(*2*) To the same section the following shall be added, namely:—

"If no payment is made under this section before the expiration of three years from the date on which the deposit was made, the amount deposited may, in the absence of any order of a Civil Court to the contrary, be repaid to the depositor upon his application and on his returning the receipt given by the Deputy Commissioner."

Amendment of section 15.

10. In section 15 of the said Act, after the word "brought" the words "and no application for a certificate under section 155 shall be made" shall be inserted; and after the word "instituted" the words "or application made" shall be inserted.

Amendment of section 17.

11. In section 17 of the said Act,—

(*a*) after the word "rent" the words "or interest thereon" shall be inserted, and

(*b*) for the words "or raiyat", in both places in which they occur, the words "raiyat or Mundari khunt-kattidar" shall be substituted.

(Part II.—Amendment of the Chota Nagpur Landlord and Tenant Procedure Act.—Sec. 12.)

Insertion of new sections, 28A. and 28B.

12. After section 28 of the said Act the following shall be inserted, namely:—

"28A. When an order has been made, under any law for the time being in force, directing the preparation of a record-of-rights, then, notwithstanding anything contained in the foregoing sections, the Deputy Commissioner shall not,—

Stay of proceedings before Deputy Commissioner during preparation of record-of-rights.

(*a*) where a settlement of land-revenue is being or is about to be made—until after the final publication of the record-of-rights, and

(*b*) where a settlement of land-revenue is not being made or is not about to be made—until three months after the final publication of the record-of-rights,

entertain any suit or application for the alteration of the rent or the determination of the status of any tenant in the area to which the record-of-rights applies.

"28B. (*1*) When the rent of a tenure or holding is entered in any such record-of-rights as finally published, then, notwithstanding anything contained in the foregoing sections,

Period for which rents as entered in record-of-rights are to remain unaltered.

such rent shall not, except on the ground of a landlord's improvement or of a subsequent alteration in the area of the tenure or holding, be enhanced, in the case of a tenure or an occupancy-holding, for seven years, and, in the case of a non-occupancy holding, for five years,

and no such rent shall be reduced within the periods aforesaid save on the ground of alteration in the area of the holding or on the ground that the soil of the holding has, without the fault of the raiyat, become permanently deteriorated by a deposit of sand or other specific cause, sudden or gradual.

"(*2*) The said periods of seven years and five years shall be counted from the date of the final publication of the said record-of-rights."

(Part II.—Amendment of the Chota Nagpur Landlord and Tenant Procedure Act.—Secs. 13-16.)

Amendment of section 30.

13. In section 30 of the said Act, for the word "six" the words "six-and-a-quarter" shall be substituted.

Amendment of section 31.

14. For section 31 of the said Act the following shall be substituted, namely:—

"31. Where an arrear of rent remains due from a non-occupancy raiyat at the end of the Bengali or Sumbat year, where that year prevails, or at the end of the month of Jeyt, where the Fasli or Wiláyati year prevails,

Ejectment of non-occupancy raiyat for arrears of rent.

the landlord may, whether he has obtained a decree for the recovery of the arrear or not, and whether he is entitled by the terms of any contract to eject the tenant for arrears or not, institute a suit to eject the raiyat."

Insertion of new section, 32A.

15. After section 32 of the said Act the following shall be inserted, namely:—

"32A. If any raiyat, after the commencement of the Chota Nagpur Tenancy (Amendment) Act, 1903, uses the land comprised in his holding in a manner which renders it unfit for the purposes of the tenancy, he shall be liable to be ejected from the land, but only in execution of a decree or order passed under the provisions of this Act."

Ejectment of raiyat for misuse of land.

Amendment of section 33.

16. In section 33 of the said Chota Nagpur Landlord and Tenant Procedure Act, Ben. Act I of 1879.

(*a*) for the words "or tenure", in the first two places in which they occur, the words "tenure or Mundari khunt-kattidari tenancy" shall be substituted;

(*b*) for the words "or tenure", in the third place in which they occur, the words "tenure or tenancy" shall be substituted, and

(*c*) for the words "or raiyat", wherever they occur, the words "raiyat or Mundari khunt-kattidar" shall be substituted.

Amendment of section 34.

17. For section 34 of the said Act the following shall be substituted, namely :—

"34. (*1*) When any tenure or portion thereof is transferred by succession, inheritance, sale, gift, mortgage or exchange, the transferee or his successor in title shall cause the transfer to be registered in the sarishta of the zamindar or superior tenant to whom the rent of the tenure or portion is payable.

Registration of certain transfers of tenures.

"(*2*) Every zamindar or superior tenant shall, in the absence of sufficient reasons to the contrary, admit to registry and otherwise give effect to all such transfers.

"(*3*) Whenever any such transfer of a tenure or portion of a tenure is registered in the sarishta of the zamindar or superior tenant, he shall be entitled to levy a registration-fee of the following amount, namely :—

(*a*) when rent is payable in respect of the tenure or portion—a fee of two *per centum* on the annual rent thereof : provided that no such fee shall be less than one rupee or more than one hundred rupees, and

(*b*) when rent is not payable in respect of the tenure or portion—a fee of two rupees.

"(*4*) Every application for the registration of a transfer under sub-section (*1*) must be made, in the case of a transfer which occurred before the commencement of the Chota Nagpur Tenancy (Amendment) Act, 1903, within one year from such commencement, and, in the case of a transfer occurring after such commencement, within one year from the date of the transfer.

(*Part II.—Amendment of the Chota Nagpur Landlord and Tenant Procedure Act.—Secs. 18-20.*)

"(*5*) If application for the registration of any transfer of a tenure or portion thereof is not made, and the registration-fee paid or tendered, as hereinbefore prescribed, the transferee or his successor in title shall not be entitled to recover, by suit or other proceeding, any rent payable to him as the holder of the tenure or portion which may have accrued due between the date of the transfer and the date of the application for registration.

"(*6*) Nothing in this section shall be construed—

(*i*) to validate a transfer of any tenure or portion thereof which, by the terms upon which it is held, or by any law or any custom having the force of law, is not transferable, or

(*ii*) if a tenure is resumable, to affect the right of the zamindar or superior tenant to resume it.

"(*7*) The mere registration of a transfer, or the mere levy of a registration-fee, under this section, shall not be deemed to imply a consent to, or permission to make, the transfer, within the meaning of section 36A; and the zamindar or superior tenant shall not be bound by the terms or conditions of any such transfer."

Repeal of section 35.

18. Section 35 of the said Act is repealed.

Amendment of section 36.

19. (*1*) In section 36 of the said Act, for the words "the two last preceding sections" the word and figures "section 34" shall be substituted.

(*2*) In the same section, after the word "transferee" the words "or his successor in title" shall be inserted.

Insertion of new section, 36A.

20. After the said section 36 the following shall be inserted, namely:—

"36A. (*1*) Upon the resumption of a resumable tenure, every lien, sub-tenancy, easement or other right or interest created, without the consent or permission of the grantor or his successor in interest, by the grantee or any of his successors, on the tenure, or

Annulment of incumbrances on resumption of resumable tenure.

in limitation of his own interest therein, shall be deemed to be annulled, except the following, namely:—

(*a*) any lease of land whereupon a dwelling-house, manufactory or other permanent building has been erected, or a permanent garden, plantation, tank, canal, place of worship or burning or burying ground has been made, or wherein a mine has been sunk under lawful authority;

(*b*) any right of occupancy;

(*c*) any right to hold land known as korkar, baiballá, khandwat, sajhwat, jalsásan or ariat;

(*d*) any right to hold land occupied by a sacred grove; and

(*e*) any Mundari khunt-kattidari tenancy.

"(*2*) Nothing in clause (*a*) shall be construed to confer on any grantee of a resumable tenure, or any of his successors, any right over minerals which he does not otherwise possess."

Amendment of section 37.

21. (*1*) The words "on account of the illegal exaction of rent or of any unauthorised cess or impost, or on account of the refusal of receipts for rent paid, or," in clause (*2*) of section 37 of the said Act, are repealed.

(*2*) After the words "extortion of rent," in the same clause, the words "or interest thereon" shall be inserted.

(*3*) After clause (*5*) of the same section the following shall be inserted, namely:—

"(*5a*) all suits to eject a raiyat on account of the use of land comprised in his holding in a manner which renders it unfit for the purposes of the tenancy."

Amendment of section 39.

22. (*1*) At the beginning of section 39 of the said Act the following shall be inserted, namely:—

"Subject to such rules (if any) as may from time to time be made by the Local Government in this behalf."

(*Part II.—Amendment of the Chota Nagpur Landlord and Tenant Procedure Act.—Secs. 23-27.*)

(*2*) In the same section, for the word and figures "or 33" the figures and word "33 or 154" shall be substituted.

Amendment of section 44.

23. In section 44 of the said Act,—

(*a*) after the word "Suits" the words and figures "and applications under section 155" shall be inserted; and

(*b*) after the word "suit", in both places in which it occurs, the words "or application" shall be inserted.

Insertion of new section, 44A.

24. After the said section the following shall be inserted, namely:—

Successive suits or applications for recovery of rent.

"44A. Where a landlord has instituted a suit, or applied for a certificate under section 155, against a raiyat or a Mundari khunt-kattidar, for the recovery of any rent of his tenancy, the landlord shall not institute another suit or apply for another such certificate against him for the recovery of any rent of that tenancy until after six months from the date of the institution or making of the previous suit or application."

Amendment of section 47.

25. In section 47 of the said Act, after the word "raiyat" the words "or Mundari khunt-kattidar" shall be inserted.

Amendment of section 57.

26. In section 57 of the said Act,—

(*a*) for the words "or raiyat" the words "raiyat or Mundari khunt-kattidar" shall be substituted, and

(*b*) for the words "a dependent taluk or other transferable tenure which, as hereinafter provided," the words "a tenure or holding which" shall be substituted.

Amendment of section 66.

27. In section 66 of the said Act, for the words "fifteen days", wherever they occur, the words "thirty days" shall be substituted.

(Part II.—Amendment of the Chota Nagpur Landlord and Tenant Procedure Act.—Secs. 28-32.)

Amendment of section 82.

28. (*1*) In the first paragraph of section 82 of the said Act, for the word "suit" the words "suit or other proceeding under this Act" shall be substituted.

(*2*) In the same paragraph, after the words "is subordinate", the words "or by any other person whom the Deputy Commissioner may deem fit" shall be inserted.

(*3*) In the second paragraph of the same section, after the word "officer" the words "or other person" shall be inserted.

(*4*) At the end of the same section, the words "or other proceeding as aforesaid" shall be added.

Amendment of section 87.

29. In section 87 of the said Act, for the words "or under-tenant", in both places in which they occur, the words "under-tenant or Mundari khunt-kattidar" shall be substituted.

Amendment of section 88.

30. (*1*) In section 88 of the said Act, before the word "raiyat", in both places in which it occurs, the words "non-occupancy" shall be inserted.

(*2*) In the same section, for the word "fifteen" the word "thirty" shall be substituted.

(*3*) In the same section, before the word "decree", where it last occurs, the word "final" shall be inserted.

(*4*) To the same section the following shall be added, namely:—

"The Court may, for special reasons to be recorded in writing, extend the period of thirty days mentioned in this section."

Amendment of section 103.

31. In section 103 of the said Act, for the word "judgment", where it first occurs, the words "decree or order" shall be substituted.

Amendment of section 104.

32. In section 104 of the said Act, for the word "judgment" the words "decree or order" shall be substituted.

(Part II.—Amendment of the Chota Nagpur Landlord and Tenant Procedure Act.—Secs. 33, 34.)

Amendment of section 105.

33. For section 105 of the said Act the following shall be substituted, namely:—

"105. No process of execution of any description whatsoever shall be issued on any decree or order passed under this Act unless an application be made within three years from—

Application for execution to be made within three years.

(*a*) the date of the decree or order, or

(*b*) where there has been an appeal, the date of the final decree or order of the Appellate Court, or

(*c*) where there has been a review of judgment, the date of the decision passed on the review."

Amendment of section 123.

34. (*1*) For the first sentence of section 123 of the said Act the following shall be substituted, namely:—

"If the decree is for an arrear of rent in respect of a tenure or holding, the decree-holder may make application for the sale of such tenure or holding; and the tenure or holding may thereupon be brought to sale, in execution of the decree, according to the provisions for the sale of under-tenures contained in the Bengal Rent Recovery (Under-tenures) Act, 1865; and all the provisions of that Act shall, as far as may be, apply:

Ben. Act VIII of 1 65.

"Provided that the Commissioner may, by order, in any case in which he may consider it desirable so to do,—

(*a*) prohibit the sale of any tenure or portion thereof, or

(*b*) stay any such sale for any period specified in the order:

"Provided also that any sale of a resumable tenure under this section shall not affect the right of the grantor or his successor in title to resume such tenure, but shall be made subject to such right."

(*2*) In the last sentence of the said section, for the words "an under-tenure" the words "the tenure or holding" shall be substituted.

(Part II.—Amendment of the Chota Nagpur Landlord and Tenant Procedure Act.—Secs. 35-38.)

Repeal of section 124.

35. Section 124 of the said Chota Nagpur Landlord and Tenant Procedure Act is repealed. Ben. Act I of 1879.

Amendment of section 125.

36. (*1*) In section 125 of the said Act, for the words and figures "any such under-tenure as is mentioned in section 123, or of the right and title of any person in an under-tenure of the nature described in section 124," the words "any tenure or holding" shall be substituted.

(*2*) In the same section, for the words "such under-tenure" the words "such tenure or holding" shall be substituted.

(*3*) Before the proviso in the same section the following shall be inserted, namely :—

"Provided that no such inquiry shall be made where the Court considers that the claim was designedly or unnecessarily delayed."

(*4*) Before the words "that no transfer" in the same section, the word "also" shall be inserted.

(*5*) In the same section, for the words "an under-tenure" the words "a tenure" shall be substituted.

Partial repeal of sections 127 and 128.

37. The words and figures "if of the nature described in section 123 and not of the nature described in section 124" in section 127 of the said Act,

and the words "of a saleable under-tenure or of a tenure the right and title in which is saleable" in section 128 of the said Act,

are repealed.

Insertion of new section, 130A.

38. After section 130 of the said Act the following shall be inserted, namely :—

"130A. (*1*) When a tenure or holding has been sold for an arrear of rent due thereon, or when any other immoveable property has been sold under section 129, any person who owns the tenure or holding or the said immoveable

Application to set aside sale of tenure, holding or other immoveable property.

(*Part II.—Amendment of the Chota Nagpur Landlord and Tenant Procedure Act.—Secs. 39-41.*)

property, or who has an interest therein under a title lawfully acquired before the sale, may, at any time within a period of thirty days from the date of the sale, apply to have the sale set aside on his depositing in Court,—

(*a*) for payment to the purchaser, a sum equal to five *per centum* of the purchase money, and

(*b*) for payment to the decree-holder, the amount specified in the proclamation of sale as that for the recovery of which the sale was ordered, less any amount which may, since the date of such proclamation and sale, have been received by the decree-holder.

"(*2*) If such deposits are made within the said period, the Court shall pass an order setting aside the sale, and the provisions of section 315 of the Code of Civil Procedure shall apply in the case of a sale so set aside." XIV of 1882.

Amendment of section 133.

39. In section 133 of the said Chota Nagpur Landlord and Tenant Procedure Act, after the words "a Deputy Commissioner" the words "by general or special order" shall be inserted. Ben. Act I of 1879.

Amendment of section 134.

40. In section 134 of the said Act, after the word "duties" the words "and the exercise of their powers" shall be inserted.

Amendment of section 135.

41. (*1*) In section 135 of the said Act, before the words "shall be appealable to the Commissioner," the words and figures "and not being orders passed under section 119, section 120 or section 130" shall be inserted.

(*2*) At the end of the same section the following shall be added, namely:—

"Orders passed after decree and relating to the execution thereof shall be appealable to the Court to which an appeal from the decree itself would lie."

(Part II.—Amendment of the Chota Nagpur Landlord and Tenant Procedure Act.—Secs. 42-46.)

Amendment of sections 136 and 140.

42. In sections 136 and 140 of the said Act, for the word "fifteen", wherever it occurs, the word "thirty" shall be substituted.

Repeal of section 138.

43. Section 138 of the said Act is repealed.

Addition to section 144.

44. To section 144 of the said Act the following shall be added, namely:—

"A second appeal shall lie to the High Court, under Chapter XLII of the Code of Civil Procedure, from any appellate decree passed by the Judicial Commissioner under this Act." XIV of 1882.

Insertion of new section, 144A.

45. After section 144 of the said Act the following shall be inserted, namely:—

"144A. Where, in analogous cases, some appeals have been presented to the Deputy Commissioner and others to the Judicial Commissioner, the Judicial Commissioner may, on the application of any of the parties, transfer to his own Court the appeals pending in the Court of the Deputy Commissioner."

Transfer of appeals from Deputy Commissioner to Judicial Commissioner.

Insertion of new section, 145A.

46. After section 145 of the said Act the following shall be inserted, namely:—

"145A. (*1*) The provisions of section 561 of the Code of Civil Procedure shall, so far as applicable, apply to all appeals under this Act. XIV of 1882.

Application of certain provisions of the Code of Civil Procedure.

"(*2*) The provisions of the Code of Civil Procedure relating to the amendment of plaints, the amendment of decrees, the substitution and addition of parties, and review of judgment shall, so far as they are not inconsistent with this Act, apply to all suits, appeals and proceedings under this Act."

(Part II.—Amendment of the Chota Nagpur Landlord and Tenant Procedure Act.—Sec. 47.)

Insertion of new sections, 151 to 164.

47. After section 150 of the said Act the following shall be added, namely:—

"*Further provisions as to Mundari khunt-kattidars.*

Application of preceding sections to Mundari khunt-kattidari tenancies.

"151. Such of the preceding sections as are applicable to Mundari khunt-kattidars shall, in their application to such persons and their tenancies, be read subject to the provisions of the following sections.

Restrictions on transfer of Mundari khunt-kattidari tenancies.

"152. (*1*) No Mundari khunt-kattidari tenancy or portion thereof shall be transferable by sale, whether in execution of a decree or order of a Court or otherwise:

Provided that, when a decree or order has been made by any Court for the sale of any such tenancy or portion thereof, in satisfaction of a debt due under a mortgage (other than a usufructuary mortgage) which was registered before the commencement of the Chota Nagpur Tenancy (Amendment) Act, 1903, the sale may be made with the previous sanction of the Deputy Commissioner.

"(*2*) If the Deputy Commissioner refuses to sanction the sale of any such tenancy or portion thereof under the proviso to sub-section (*1*), he shall attach the land and make such arrangements as he may consider suitable for liquidating the debt.

"(*3*) No mortgage of a Mundari khunt-kattidari tenancy or any portion thereof shall be valid, except a bhugut bandha mortgage for a period not exceeding seven years.

"(*4*) No lease of a Mundari khunt-kattidari tenancy or any portion thereof shall be valid, except a lease of one or other of the following kinds, namely:—

(*a*) mukarrari leases of uncultivated land, when granted to a Mundari or a group of Mundaris for the purpose of enabling the lessees or the male members of

their families to bring suitable portions of the land under cultivation;

(*b*) leases of uncultivated land, when granted to a Mundari cultivator to enable him to cultivate the land as a raiyat:

"*Explanation.*—The expression 'uncultivated land,' as used in this sub-section, includes land which, though formerly cultivated, is not, at the time the lease is granted, either under cultivation or in the occupation of the lessee for purposes of cultivation.

"(*5*) Where a Mundari khunt-kattidari tenancy is held by a group of Mundari khunt-kattidars, no bhugut bandha mortgage or mukarrari lease of the tenancy or any portion thereof shall be valid unless it is made with the consent of all the Mundari khunt-kattidars.

"(*6*) No transfer of a Mundari khunt-kattidari tenancy or any portion thereof, by any contract or agreement made otherwise than as provided in the foregoing sub-sections, shall be valid.

"(*7*) Nothing in the foregoing sub-sections shall affect any sale, or, except as declared in the proviso to sub-section (*1*), any mortgage, or any lease, made before the commencement of the Chota Nagpur Tenancy (Amendment) Act, 1903.

"153. If any person, after the commencement of the Chota Nagpur Tenancy (Amendment) Act, 1903, obtains possession of a Mundari khunt-kattidari tenancy, or any portion thereof, in contravention of the provisions of section 152, the Deputy Commissioner may eject him therefrom;

Ejectment of persons unlawfully obtaining possession of such tenancies.

and if the tenancy was, before such possession was obtained, entered as a Mundari khunt-kattidari tenancy in a record-of-rights finally published under section 103A, sub-section (*2*), of the Bengal Tenancy Act, 1885, no suit shall be maintainable in any Court in respect of such ejectment; but an appeal shall lie VIII of 1885.

(*Part II.—Amendment of the Chota Nagpur Landlord and Tenant Procedure Act.—Sec. 47.*)

to the Commissioner, if presented within three months from the date of the ejectment, and his decision shall be final.

"154. (*1*) The rent of a Mundari khunt-kattidari tenancy may be enhanced only—

Enhancement of rent.

(*a*) by an order of the Deputy Commissioner, and

(*b*) if it be shown before the Deputy Commissioner that the tenancy was created within a period of twenty years immediately preceding the presentation of the petition for enhancement.

"(*2*) An order of the Deputy Commissioner under sub-section (*1*) shall not enhance the rent of any such tenancy to an amount which would exceed one-half of the rent which would be payable for the land if it were held by a raiyat having a right of occupancy therein.

"(*3*) The provisions of sections 22 to 24 shall be applicable to proceedings for the enhancement of the rent of a Mundari khunt-kattidari tenancy.

"155. (*1*) When an arrear of rent accrues in respect of a Mundari khunt-kattidari tenancy for which a record-of-rights has been prepared under Chapter X of the Bengal Tenancy Act, 1885, or any other law for the time being in force,

Recovery of arrears of rent under the certificate procedure, where there is a record-of-rights.

VIII of 1885.

no suit shall be maintainable in any Court for the recovery of the arrear; but the landlord may apply in writing to the Deputy Commissioner to make a certificate authorising the recovery thereof, with simple interest at six-and-a-quarter *per centum per annum*, or, in the case of money recoverable under the Cess Act, 1880, with simple interest at twelve-and-a-half *per centum per annum*, under the Public Demands Recovery Act, 1895.

Ben. Act IX of 1880.

Ben. Act I of 1895.

"(*2*) Upon receiving any such application, the Deputy Commissioner may, after making such inquiry and taking such evidence as he may consider necessary, make a certificate as aforesaid.

"(*3*) The person in whose favour any such certificate is made shall be deemed to be the decree-holder for the amount mentioned in the certificate, and the person against whom the certificate is made shall be deemed to be the judgment-debtor for the said amount; and all proceedings taken by the Certificate Officer for the recovery of such amount shall be taken at the instance of the first-mentioned person, and at his cost and on his responsibility, and not otherwise.

"(*4*) Every such certificate shall have the same effect as a certificate made under section 7 of the said Public Demands Recovery Act, 1895; and the following portions of that Act shall be applicable, namely, the proviso to section 7, sub-section (*1*); section 9, sub-sections (*2*) and (*3*); section 10, sub-section (*1*); and sections 11 to 14, 18, 19, 22 and 24 to 33: Ben. Act I of 1895.

Provided as follows:—

(*a*) a certificate made under this section may be enforced only by the attachment and sale of the moveable property of the person against whom the certificate is made, or by the attachment and realisation of rent or other debts due to him, or by execution against his person in the manner provided by this Act, or by any two or more of these processes; and

(*b*) no objection by any third person to the attachment or sale of crops shall be entertained except—

(*i*) an objection, by a mortgagee holding under a bhugut bandha mortgage, that the judgment-debtor has other moveable property or assets from which the sum due can be realised; or

(*ii*) an objection, by a lessee holding under a mukarrari lease as described in section 152, clause (*a*), that the land in respect of which the arrear accrued is included in his lease, and that the judgment-debtor has other moveable property or assets from which the sum due can be realised; or

(Part II.—Amendment of the Chota Nagpur Landlord and Tenant Procedure Act.—Sec. 47.)

(*iii*), an objection, by a cultivator, that he is in possession of the land in respect of which the arrear accrued, that the land is recorded in the record-of-rights as being in the possession of himself or of some person from whom he has lawfully acquired such possession, and that the judgment-debtor has other moveable property or assets from which the sum due can be realised; or

(*iv*) an objection, by such third person, that the land on which such crops were or are standing is entered in the record-of-rights as being in the possession of himself or of some person from whom he has lawfully acquired possession, and that such land does not form part of the tenancy in respect of which the certificate was made.

"(*5*) The provisions of sections 99 to 122 shall, so far as the same may be applicable, apply to proceedings under sub-section (*4*).

"(*6*) If no appeal is presented under section 32 of the Public Demands Recovery Act, 1895, or if any such appeal is decided against the judgment-debtor, the certificate shall become absolute, and shall have the same force and effect as a final decree of a Civil Court. Ben. Act of 1895.

"(*7*) Notwithstanding anything hereinbefore contained, the Deputy Commissioner may, in any case, by written order setting forth the reasons therefor, refuse to make a certificate as aforesaid, or stay for any specified period the execution of any certificate which has been made.

"(*8*) An appeal shall lie to the Commissioner from any order made under sub-section (*7*), if presented within one month from the date of the order; and his decision shall be final.

"156. If, in the course of any proceedings under section 155, any question of title is raised which could, in the opinion of the Deputy Commissioner, more properly be determined by a Civil Court, the Deputy Commissioner shall refer such question to the principal Civil Court in the district for determination.

Reference of question of title to Civil Court.

"157. (*1*) When an arrear of rent accrues in respect of a Mundari khunt-kattidari tenancy for which no record-of-rights has been prepared, the landlord may institute a suit for the recovery of the arrear.

Recovery of arrear of rent by suit where there is no record-of-rights.

"(*2*) A decree or order made in any such suit may be enforced only by the attachment and sale of the moveable property of the defendant, or by the attachment and realisation of rent or other debts due to him, or by execution against his person in the manner provided by this Act, or by any two or more of these processes.

"158. Where a Mundari khunt-kattidari tenancy is held jointly by a group of khunt-kattidars,

Joinder of parties in proceedings under section 155 or 157.

and an objection to the making of a certificate under section 155, or to the execution thereof, or to the maintenance of a suit under section 157, is made on the ground that all the khunt-kattidars have not been made parties to the proceedings,

the objection shall not be entertained if it be shown that other khunt-kattidars could not be made parties without undue delay or expense.

"159. All Mundari khunt-kattidari tenancies shall be so described in the record-of-rights prepared under Chapter X of the Bengal Tenancy Act, 1885.

Entry of Mundari khunt-kattidari tenancies in record-of-rights.

VIII of 1885.

"160. (*1*) At any time within three months from the date of the certificate of the final publication of the record-of-rights under the Bengal Tenancy Act, 1885, section 103A, sub-section

Decision of disputes regarding entries or omissions in record-of-rights.

VIII of 1885.

(Part II.—Amendment of the Chota Nagpur Landlord and Tenant Procedure Act.—Sec. 47.)

(*2*), a suit may be instituted before the Revenue-officer who prepared such record, by presenting a plaint on stamped paper,

for the decision of any dispute regarding any entry of a Mundari khunt-kattidari tenancy or the incidents thereof in the record, or regarding any omission to enter such a tenancy or any incident thereof in the record;

and the Revenue-officer shall hear and decide the dispute.

"(*2*) In all such suits the Revenue-officer shall, subject to any rules made by the Local Government in this behalf, adopt the procedure laid down in this Act for the trial of suits; and his decision shall, subject to an appeal to the Commissioner under section 161, be final.

"161. An appeal shall lie to the Commissioner from any decision of a Revenue-officer under section 160, if presented within three months from the date of the decision; and the decision of the Commissioner shall be final.

Appeal against such decisions.

"162. Whenever a suit instituted under section 160 has been finally decided, a note of the decision shall be made in the record-of-rights, as finally published, by the Revenue-officer who prepared the record; and such note shall be considered as part of the record.

Entry of decisions in record-of-rights.

"163. When an order has been issued under section 101 of the Bengal Tenancy Act, 1885, in respect of any local area, estate, tenure or part thereof, no judgment, decree or order in any suit instituted thereafter shall be taken as evidence, VIII of 1885.

In preparing record-of-rights, judgments, &c., in suits not to be taken as evidence that tenancies are or are not Mundari khunt-kattidari tenancies.

in any inquiry made by a Revenue-officer engaged in the preparation of a record-of-rights for such area, estate, tenure or part, under Chapter X of the said Act,

respecting any claim that any tenancy within that area, estate, tenure or part is or is not a Mundari khunt-kattidari tenancy

(Part II.—Amendment of the Chota Nagpur Landlord and Tenant Procedure Act.—Part III.—Amendment of the Chota Nagpur Commutation Act, 1897.—Secs. 48-50.)

"164. When a record-of-rights has been finally published under section 103A, sub-section (*2*), of the Bengal Tenancy Act, 1885, or amended under section 162 of this Act, the entries therein relating to Mundari khunt-kattidari tenancies shall be conclusive evidence of the nature and incidents of such tenancies;

Record-of-rights to be conclusive evidence on the question whether a tenancy is a Mundari khunt-kattidari tenancy.

VIII of 1885.

and, if any tenancy in the area, estate or tenure for which the record-of-rights was prepared has not been recorded therein as a Mundari khunt-kattidari tenancy, no evidence shall be received in any Court to show that such tenancy is a Mundari khunt-kattidari tenancy."

Amendment of Schedule C.

48. In Schedule C to the said Chota Nagpur Landlord and Tenant Procedure Act, after the word "suit" the words "[*or, as the case may be*, make an application]" shall be inserted.

Ben. Act I of 1879.

PART III.—AMENDMENT OF THE CHOTA NAGPUR COMMUTATION ACT, 1897.

Ben. Act IV of 1897.

Amendment of proviso to section 4 (*3*) of Bengal Act IV of 1897.

49. For the proviso to sub-section (*3*) of section 4 of the Chota Nagpur Commutation Act, 1897, the following shall be substituted, namely :—

"Provided that the amount payable in commutation shall be so fixed that the total annual rent of the land, including such amount as aforesaid, shall not exceed the rent which would be fair and reasonable if the land were not held subject to any predial conditions or services."

Insertion of new section, 9A.

50. After section 9 of the said Act the following shall be inserted, namely :—

"9A. In every local area, estate, tenure or part thereof in which a survey is being made and a record-of-rights is being prepared under an order issued under section 101 of the Bengal Tenancy Act, 1885,

Procedure where a survey and record-of-rights are being made under the Bengal Tenancy Act, 1885.

VIII of 1885.

(*Part III.—Amendment of the Chota Nagpur Commutation Act, 1897.—Sec. 50.*)

and in which a record of predial conditions or services is being prepared and a commutation thereof is being made under an order issued under section 5 of this Act,

the following provisions shall have effect, instead of those contained in sections 6 to 9 of this Act, namely :—

(*1*) The Revenue-officer shall, at the time of attesting the preliminary record, ascertain all the predial conditions or services to which, by ancient custom, the general body of tenants are liable, and the cash values of such services;

and shall prepare a statement, in such form as the Board of Revenue may from time to time prescribe, showing the conditions, services and values so ascertained.

(*2*) In calculating the cash value of such services the Revenue-officer shall be guided by the provisions of section 4, sub-section (*3*).

(*3*) The Revenue-officer shall enter in the khatian of each tenant the cash value of the predial conditions or services (if any) to which such tenant is liable, as ascertained under clause (*1*).

(*4*) If any tenant, by ancient custom, is liable to any predial conditions or services other than those to which the general body of tenants are liable, or is not liable to all the predial conditions or services to which the general body of tenants are liable, the Revenue-officer shall also specify in the khatian the predial conditions or services to which such tenant is liable.

(*5*) The statement prepared under clause (*1*), and the entries in the khatian, shall be published in draft in the same manner and for the same period as the record-of-rights.

(*Part III.—Amendment of the Chota Nagpur Commutation Act, 1897.—Sec. 50.*)

(*6*) Objections as to entries or omissions, in the statement or khatian, relating to predial conditions or services, may be made under the same conditions as objections to entries in or omissions from the record-of-rights, and shall be disposed of in the same manner as such objections.

(*7*) After the disposal of objections, the said statement, and the entries in the khatian relating to predial conditions or services, shall be finally published at the same time and in the same manner as the record-of-rights.

(*8*) At any time within three months from the date of the certificate of the final publication of the record-of-rights under the Bengal Tenancy Act, 1885, section 103A, sub-section (*2*), a suit may be instituted before the Revenue-officer who prepared such record, by presenting a plaint on stamped paper, VIII of 1885.

for the decision of any dispute regarding any entry in the record relating to predial conditions or services, or regarding any omission to enter any such conditions or services in the record;

and the Revenue-officer shall hear and decide the dispute.

(*9*) In all such suits the Revenue-officer shall, subject to any rules made by the Local Government in this behalf, adopt the procedure laid down in the Chota Nagpur Landlord and Tenant Procedure Act for the trial of suits; and his decision shall, subject to an appeal to the Commissioner under clause (*10*), be final. Ben. Act I of 1879.

(*10*) An appeal shall lie to the Commissioner from any decision of a Revenue-officer under clause (*8*), if presented within three months from the date of the decision; and the decision of the Commissioner shall be final."

(*Part III.—Amendment of the Chota Nagpur Commutation Act, 1897.—Sec. 51.*)

Insertion of new section, 12A.

51. After section 12 of the said Chota Nagpur Commutation Act, 1897, the following shall be inserted, namely :— Ben. Act IV of 1897.

"12A. No proceedings under this Act shall bar the right of any tenant or landlord to claim a reduction or enhancement of rent in accordance with law after such proceedings have been completed."

Saving of right to claim reduction or enhancement of rent.

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